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U. S. COURT HOUSE, NEW YORK

APPENDIX

In the Supreme Court of the United States

OCTOBER TERM, 1971

No. 71-16

JOHN N. MITCHELL, ATTORNEY GENERAL OF THE UNITED STATES, AND WILLIAM P. ROGERS, SECRETARY OF STATE, APPELLANTS,

v.

ERNEST MANDAL, DAVID MERMELSTEIN, WASSILY LEONTIEV, NORMAN BIRNBAUM, ROBERT L. HEILBRONER, ROBERT PAUL WOLFF, LOUIS MENACHE, NOAM CHOMSKY, AND RICHARD A. FALK

ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF NEW YORK

JURISDICTION STATEMENT FILED JULY 2, 1971
PROBABLE JURISDICTION NOTED JANUARY 19, 1972

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*Decision of the district court appears as Appendix to the jurisdictional statement, pp. 1a-50a.

Date	Docket entries
March 19, 1970	Complaint filed. Summons issued.
March 27, 1970	Summons returned and filed. Defendants served on March 19, 1970.
May 12, 1970	Amended complaint filed.
May 22, 1970	Notice of motion and plaintiffs' memorandum of law filed, convening a three-judge court and pursuant to Rule 65 for a preliminary injunction etc. (returned June 12, 1970).
May 26, 1970	By BARTELS, J. Order filed extending time of Defendant to answer to June 26, 1970 (P/C mailed to attorney.)
June 12, 1970	Before BARTELS, J. Case called. Motion argued. Decision reserved. Court will convene three-judge court to hear this motion at a future date.
June 17, 1970	By LUMBARD Ch J. U.S. Court of Appeals: Order filed designating in addition to Judge Bartels, Hon. Wilfred Feinberg, and John F. Dooling, Jr., to hear and determine said cause etc. (P/Cs mailed to attorneys.) Copies of order mailed to Hon. Wilfred Feinberg and John F. Dooling, Jr.
June 24, 1970	Before FEINBERG, Cir. J., BARTELS, J. and DOOLING, J.—Case called, motion argued—Decision reserved.
July 8, 1970	Answer of defendants filed. (Affidavit of service by mail on July 8, 1970.)
July 17, 1970	Affidavit of Lloyd H. Baker filed.
March 18, 1971	By FEINBERG, Cir. J., BARTELS, J. and DOOLING, J.—Memorandum filed. Decision rendered granting plaintiffs a preliminary injunction, etc. Settle order on notice.
April 13, 1971	By FEINBERG, Cir. J., DOOLING, J.—Order filed that plaintiffs' motion for preliminary injunction and declaratory judgment is granted. That defendants are enjoined and restrained from enforcing etc. of the Immigration & Nationality Act so as to deny plaintiff Mandel admission to the United States as a nonimmigrant visitor etc. and that the effectiveness of the second decretal paragraph is stayed for 20 days from the date hereof. (P/C mailed to attorneys.)

Date	Docket entries
May 3, 1971	Notice of appeal filed. (Copy to U.S. Court of Appeals and plaintiff's attorney.)
May 4, 1971	Notice of motion and Memorandum of Law convening a 3-judge court for an order staying the order dated April 13, 1971 returned May 7, 1971. Filed.
May 11, 1971	By FEINBERG, J. BARTELS, J. DOOLING, J.—Order filed that a stay of the order (April 13, 1971), is granted for 30 days from the date hereof. If during the 30-day period defendants file their jurisdictional statement on appeal from said order with the Supreme Court the stay shall continue until final disposition by the Supreme Court. (P/C mailed to attorneys.)
May 13, 1971	Copy of notice of appeal returned from Court of Appeals and mailed to Supreme Court of the United States.

United States District Court, Southern District of New York
ERNEST MANDEL; DAVID MERMELSTEIN; WASSILY LEONTIEF;
NORMAN BIRNBAUM; ROBERT L. HEILBRONER; ROBERT PAUL
WOLFF; AND LOUIS MENASHE, PLAINTIFFS

against

JOHN M. MITCHELL, ATTORNEY GENERAL OF THE UNITED
STATES; WILLIAM P. ROGERS, SECRETARY OF STATE,
DEFENDANTS

COMPLAINT

Plaintiffs, for their complaint, allege:

1. This action arises under the Constitution of the United States, in particular, the First and Fifth Amendments thereto. The jurisdiction of this Court is based upon 5 U.S.C. §§ 701-706; 28 U.S.C. §§ 1331, 1361 and upon Art. I, Sec. 9, Cl. 2 of the Constitution and the First and Fifth Amendments thereto.

2. The matter in controversy, exclusive of interest and costs, exceeds the value of Ten Thousand Dollars (\$10,000.00).

3. The venue of this action lies in this District under the provisions of 28 U.S.C. § 1391(e).

4. This action is brought to redress past and prevent future deprivations of plaintiff's rights, privileges and immunities secured by the Constitution of the United States.

a. Plaintiffs seek a Declaratory Judgment pursuant to 28 U.S.C. §§ 2201 and 2202 and a Preliminary and Permanent Injunction to invalidate subsections (a)(28) and (d)(3)(A) of 8 U.S.C. § 1182 on their face and as applied, and to restrain the defendants from enforcing or implementing these statutory provisions by regulation, directive, order or otherwise generally and specifically in the case of the application for a visa and admission into the United States by the above-named plaintiff, ERNEST MANDEL.

b. Plaintiffs also seek affirmative and other appropriate relief as hereinafter set forth in this complaint.

c. Because this action draws into question the constitutional validity of an Act of Congress, 8 U.S.C. § 1182 (a)(2) and (d)(3)(A), on its face and as applied and seeks an injunction against its enforcement, operation and execution, a three-judge Court is required to be convened under 28 U.S.C. §§ 2282, 2284.

5. Plaintiffs challenge the constitutionality of the following statutory provisions:

8 U.S.C. § 1182 (a) (28) (hereafter the "Political Ineligibility provision") in pertinent part provides:

(a) Except as otherwise provided in this chapter, the following classes of aliens shall be ineligible to receive visas and shall be excluded from admission into the United States.

(28) Aliens who are, or at any time have been, members of any of the following classes:

(A) Aliens who are anarchists;

(B) Aliens who advocate or teach, or who are members of or affiliated with any organization that advocates or teaches, opposition to all organized government;

(C) Aliens who are members of or affiliated with (i) the Communist Party of the United States, (ii) any other totalitarian party of the United States, (iii) the Communist Political Association, (iv) the Communist or any other totalitarian party of any State of the United States, of any foreign state, or of any political or geographical subdivision of any foreign state, (v) any section, subsidiary, branch, affiliate, or subdivision of any such association or party, or (vi) the direct predecessors or successors of any such association or party, regardless of what name such group or organization may have used, may now bear, or may hereafter adopt: *Provided*, That nothing in this paragraph, or in any other provision of this chapter, shall be construed as declaring that the Communist Party does not advocate the overthrow of the Government of the United States by force, violence, or other unconstitutional means;

(D) Aliens not within any of the other provisions of this paragraph who advocate the economic, international, and governmental doctrine of world communism or the establishment in the United States of a totalitarian dictatorship, or who are members of or affiliated with any organization that advocates the economic, international, and governmental doctrines of world communism or the establishment in the United States of a totalitarian dictatorship, either through its own utterances or through any written or printed publications issued or published by or with the permission or consent of or under the authority of such organization or paid for by the funds of, or funds furnished by, such organization;

(E) Aliens not within any of the other provisions of this paragraph, who are members of or affiliated with any organization during the time it is registered or required to be registered under section 786 of Title 50, unless such aliens establish that they did not have knowledge or reason to believe at the time they became members of or affiliated with such an organization (and did not thereafter and prior to the date upon which such organization was so registered or so required to be registered have such knowledge or reason to believe) that such organization was a Communist organization;

(F) Aliens who advocate or teach or who are members of or affiliated with any organization that advocates or teaches (i) the overthrow by force, violence, or other unconstitutional means of the Government of the United States or of all forms of law; or (ii) the duty, necessity, or propriety of the unlawful assaulting or killing of any officer or officers (either of specific individuals or of officers generally) of the Government of the United States or of any other organized government, because of his or their official character; or (iii) the unlawful damage, injury, or destruction of property; or (iv) sabotage;

(G) Aliens who write or publish, or cause to be written or published, or who knowingly circulate, distribute, print, or display, or knowingly cause to be circulated, distributed, printed, published, or displayed, or who knowingly have in their possession for the purpose of circulation, publication, distribution, or display, any written or printed matter, advocating or teaching opposition to all organized government, or advocating or teaching (i) the overthrow by force, violence, or other unconstitutional means of the Government of the United States or of all forms of law; or (ii) the duty, necessity, or propriety of the unlawful assaulting or killing of any officer or officers (either of specific individuals or of officers generally) of the Government of the United States or of any other organized government, because of his or their official character; or (iii) the unlawful damage, injury, or destruction of property; or (iv) sabotage; or (v) the economic, international, and governmental doctrines of world communism or the establishment in the United States of a totalitarian dictatorship;

(H) Aliens who are members of or affiliated with any organization that writes, circulates, distributes, prints, publishes, or displays or causes to be written, circulated, distributed, printed, published, or displayed, or that has in its possession for the purpose of circulation, distribution, publication, issue, or display, any written or printed matter of the character described in subparagraph (G) of this paragraph;

(I) Any alien who is within any of the classes described in subparagraph (B)-(H) of this paragraph because of membership in or affiliation with a party or organization or a section, subsidiary, branch, affiliate, or subdivision thereof, may, if not otherwise ineligible, be issued a visa if such alien establishes to the satisfaction of the consular officer when applying for a visa and the consular officer finds that (i) such membership or affiliation is or was involuntary, or is or was solely when under sixteen years of age, by operation of law, or for purposes of obtaining employment, food rations, or other essentials of living and where necessary for such purposes, or (ii) (a) since the termination of such membership or affiliation, such application for a visa, actively opposed to the doctrine, program, principles, and ideology of such party or organization or the section, subsidiary, branch, or affiliate or subdivision thereof, and (b) the admission of such alien into the United States would be in the public interest. Any such alien to whom a visa has been issued under the provisions of this subparagraph may, if not otherwise inadmissible, be admitted into the United States if he shall establish to the satisfaction of the Attorney General when applying for admission to the United States and the Attorney General finds that (i) such membership or affiliation is or was involuntary, or is or was solely when under sixteen years of age, by operation of law, or for purposes of obtaining employment, food rations, or other essentials of living and when necessary for such purposes, or (ii) (a) since the termination of such membership or affiliation, such alien is and has been, for at least five years prior to the date of the application for admission actively opposed to the doctrine, program, principles, and ideology of such party or organization or the section, subsidiary,

branch, or affiliate or subdivision thereof, and (b) the admission of such alien into the United States would be in the public interest. The Attorney General shall promptly make a detailed report to the Congress in the case of each alien who is or shall be admitted into the United States under (ii) of this subparagraph;

8 U.S.C. § 1182(d)(3)(A) (hereinafter the "Waiver" provision) in pertinent part provides:

(d) (3) Except as provided in this subsection, an alien (A) who is applying for a nonimmigrant visa and is known or believed by the consular officer to be ineligible for such visa under one or more of the paragraphs enumerated in subsection (a) of this section (other than paragraphs (27) and (29)), may, after approval of the Attorney General or a recommendation by the Secretary of State or by the consular officer that the alien be admitted temporarily despite his inadmissibility, be granted such a visa and may be admitted into the United States temporarily as a nonimmigrant in the discretion of the Attorney General * * *

6. Plaintiffs are as follows:

a. ERNEST MANDEL, (hereinafter "MANDEL") a citizen of Belgium, is an internationally noted Marxian scholar and economist and the author of *Marxist Economic Theory* (1969), a major work in his field.

b. Professor DAVID MERMELSTEIN of the Department of Social Science, Polytechnic Institute of Brooklyn, residing in Brooklyn, New York; Professor WASSILY LEONTIEF of the Department of Economics, Harvard University, residing in Cambridge, Massachusetts; Professor NORMAN BIRNBAUM of the Department of Anthropology-Sociology, Amherst College, residing in Amherst, Massachusetts; Professor ROBERT L. HEILBRONER of the Department of Economics, New School for Social Research, residing in New York City, New York; Professor ROBERT PAUL WOLFF of the Department of Philosophy, Columbia University, residing in New York City, New York; Associate Professor LOUIS MENASHE, of the Department of Social Sciences, Polytechnic Institute of Brooklyn, residing in Brooklyn, New York (hereinafter "AMERICAN PLAINTIFFS") are citizens of the United States.

7. The defendants are as follows:

a. WILLIAM ROGERS, as Secretary of State (hereinafter "SECRETARY") is the executive head of the Department of State and in that capacity and through his agents, representatives, and delegates exercises the duty of directing and supervising the issuance of nonimmigrant visas under 8 U.S.C. § 1201(a)(2) and the investigation and declaration of political ineligibility for receiving such visas under 8 U.S.C. § 1182(a)(28). In the case of an alien having been declared politically ineligible, the SECRETARY is authorized by 8 U.S.C. § 1182(d)(3)(A) to submit a recommendation to the Attorney General of the United States that the latter official exercise power granted to him by 8 U.S.C. § 1182(d)(3)(A) to waive the alien's ineligibility.

b. JOHN M. MITCHELL, as Attorney General of the United States (hereinafter "ATTORNEY GENERAL") is the executive head of the Department of Justice and in that capacity and through his agents, representatives and delegates exercises the power granted by 8 U.S.C. § 1182(d)(3)(A) to accept or reject the SECRETARY'S recommendation that an alien's political ineligibility be waived.

8. In March 1962, MANDEL applied for a "working journalist" visa to enter the United States for the purpose of writing articles for a Belgian publication. At that time, on information and belief, the SECRETARY ruled that MANDEL was politically ineligible for a visa. Nevertheless, MANDEL was issued a nonimmigrant visa, apparently as a result of a waiver of ineligibility.

9. Again, in 1968, MANDEL'S application for a nonimmigrant visa was granted, permitting him to accept invitations by thirty major American universities to give lectures and participate in scholarly conventions.

10. In the Summer of 1969, some of the AMERICAN PLAINTIFFS, together with other citizens of the United States invited MANDEL to debate Professor John Kenneth Galbraith of Harvard on the subject of "Technology and the Third World"; the debate was planned and publicized as a featured segment of a conference scheduled to be held on October 17-18 and sponsored by the Graduate Students Association of Stanford University.

11. MANDEL accepted the invitation. To fulfill this engagement, MANDEL submitted an application in September 1969, for a four-day nonimmigrant visa.

12. But later in that month this application was denied. MANDEL received notice of this action first, orally, from the American Consul in Brussels on October 23, 1969.

13. In a confirmatory letter dated October 30, 1969 (annexed hereto as Exhibit A) the Consul advised MANDEL that he was and since the ruling of the SECRETARY in 1962, has been deemed politically ineligible to receive a visa and that because of alleged violations of visa conditions during the 1968 entry, the SECRETARY had decided not to recommend waiver of ineligibility to the Attorney General. But MANDEL was further advised by the Consul that in connection with a subsequent nonimmigrant visa application submitted on October 22, 1969, the SECRETARY would recommend waiver of ineligibility based on his determination that the alleged violations in 1968 were unintentional since it appeared that MANDEL had not been notified that the issuances of nonimmigrant visas in 1962 and 1968 were pursuant to waivers of political ineligibility and subject to special conditions. This advice was confirmed in a letter dated November 6, 1968, from the Administrator of the Bureau of Security and Consular Affairs to undersigned counsel and annexed hereto as Exhibit B.

14. The October 22, 1969 application was submitted by MANDEL so that he could accept an invitation from some of the AMERICAN PLAINTIFFS and other citizens of the United States. This invitation encompassed the following series of lecturing and speaking engagements:

a. November 29—Public Conference sponsored jointly by the Bertrand Russell Peace Foundation and the Socialist Scholars Conference on "Agencies for Social Change" to be held at the Town Hall in New York City. Scheduled to appear along with MANDEL were Andre Gorz, an editor of *Les Temps Modernes* and Professor Lucien Goldman, Director of Studies at the School of Advanced Practical Studies of the Sorbonne.

b. December 1, Princeton University, Department of Philosophy,

c. December 2, Amherst College, Department of Anthropology.

d. December 3, Columbia University, Department of Philosophy.

e. December 4, Conference sponsored by the Massachusetts Institute of Technology in Boston, on the subject of the "Problems in Conversion from Military to Civilian Production in the

Economy." Included among the nationally known scholars scheduled to participate with MANDEL were Professor Galbraith and Dr. S. E. Luria, Nobel Laureat in Micro-biology.

f. December 5 and 6. Conference at Vassar College, New York. Scheduled to participate with MANDEL were Andre Gorz and Herbert Marcuse.

15. But on December 1, 1969, MANDEL was notified by the American Consul in Brussels of the ATTORNEY GENERAL'S summary and unexplained rejection of the SECRETARY'S waiver recommendation. (This notice is annexed hereto as Exhibit C).

16. On information and belief, the AMERICAN PLAINTIFFS, together with other citizens of the United States, desire to have MANDEL speak at universities and other forums in the United States so that they may hear his views and engage him in a free and open academic exchange. To this end, on information and belief, some of the AMERICAN PLAINTIFFS and other citizens have invited MANDEL to lecture and to participate in a series of conferences at various universities and other public forums in this country in the spring or fall of this year. The AMERICAN PLAINTIFFS involved, however, are prevented from setting the precise date and place of each engagement because of the existing uncertainty regarding the status of MANDEL'S eligibility for receiving a non-immigrant visa and for entry into the United States.

17. On information and belief, MANDEL has accepted this invitation for the spring or fall of 1970. But, on information and belief, in order that MANDEL'S personal and public schedule may be settled and not again suddenly disrupted by a visa denial, he has accepted the AMERICAN PLAINTIFFS' invitation on the condition that he will not be subject to the political ineligibility provision or to the unlimited or arbitrary and discriminatory exercise of discretion by the ATTORNEY GENERAL with respect to the granting or denial of a waiver of political ineligibility.

18. The foregoing statutory provisions, 8 U.S.C. § 1182 (a) (28) and (d)-(3)(A) on their face and as applied, and the determinations of the defendants made under the color of said provisions resulting in the exclusion of MANDEL from the United States in October and December 1969, and in the imminent threat of his being similarly excluded in the spring or fall of 1970, unconstitutionally restrict and abridge the First

and Fifth Amendment rights of the AMERICAN PLAINTIFFS to hear MANDEL in university and other public forums in this country and to exercise their freedom of academic inquiry by engaging MANDEL in an open and face-to-face exchange of information and opinions.

a. Subsections (a)(28) and (d)(3)(A) are void on their face and as applied because they constitute a system of prior restraint on the access of the AMERICAN PLAINTIFFS to hear MANDEL speak and to exchange opinions and information on matters of general public, as well as academic, concern.

b. Subsection (a)(28) is void on its face and as applied because

(i) it predicates ineligibility for receiving a non-immigrant visa to lecture at universities and to attend and speak at scholarly conferences or other public meetings upon the alien's mere belief in or advocacy of or association with others who believe in or advocate unpopular political viewpoints and in the absence of any evidence that the alien would engage in unlawful speech or conduct.

(ii) It denies the AMERICAN PLAINTIFFS of equal protection of the law because it applies to aliens having "leftist" political beliefs and associations, while neither (a)(28) nor any similar provision disqualifies aliens having "rightist" beliefs and associations, such as Nazi Party affiliations from receiving a non-immigrant visa.

(iii) It violates the requirements of due process in failing to provide adequate or any procedural safeguards for making the determination as to political ineligibility under (a)(28).

c. Subsection (d)(3)(A) is void on its face and as applied because

(i) it vests unbridled discretion in the ATTORNEY GENERAL without adequate or any ascertainable standards.

(ii) It violates the requirements of due process in failing to provide for adequate or any procedural safeguards for making the determination with respect to a waiver of political ineligibility.

d. The respective determination of the SECRETARY and ATTORNEY GENERAL relating to MANDEL's past and

future visa applications were and are arbitrary and capricious in violation of the First and Fifth Amendments in that

(i) there is neither substantial evidence nor a basis in fact to support the SECRETARY's determination that MANDEL is politically ineligible to receive a non-immigrant visa; and

(ii) There is neither substantial evidence, a basis in fact, nor a rational ground to support the ATTORNEY GENERAL's rejection in December, 1969 and threatened rejection in the spring or fall of 1970 of the SECRETARY's recommendation that MANDEL's political ineligibility be waived.

19. All of the foregoing statutes, rules, regulations and practices deprive the AMERICAN PLAINTIFFS of their rights to freedom of speech, association, assembly and belief and to their right to the freedom of academic inquiry and discussion, in violation of the First and Fifth Amendments to the Constitution.

20. The plaintiffs have suffered and continue to suffer immediate serious and irreparable injury for which there is no adequate remedy at law, by reason of the operation and enforcement of the aforesaid statutes, rules, regulations and practices, and also particularly as a result of the determinations made by the defendants relating to the past and future applications by MANDEL for a non-immigrant visa and admission into the United States.

21. Unless this Court restrains the enforcement, implementation and operation of the aforementioned unconstitutional statutes, rules, regulations and practices, plaintiffs will continue to suffer the immediate, serious and irreparable injury above set forth.

22. No prior application has been made for the relief requested herein.

WHEREFORE, plaintiffs pray for the following relief against the defendants, their successors and subordinates:

1. That pursuant to 28 U.S.C. §§ 2281, 2282, 2284 a three-judge Federal District Court be immediately convened to hear and determine the merits of this case;

2. That a judgment issue pursuant to 28 U.S.C. §§ 2201, 2202 declaring the constitutional invalidity of 8 U.S.C. § 1182 (a) (28) and (d) (3) (A) on its face and as applied;

3. That a judgment issue pursuant to 28 U.S.C. §§ 2201, 2202 declaring further

a. that the determination of the Secretary of MANDEL's political ineligibility for receiving a non-immigrant visa is illegal and void; and

b. that the ATTORNEY GENERAL's determination to reject the SECRETARY's recommendation of waiver of political ineligibility as to past and future applications by MANDEL for non-immigrant visas is illegal and void;

4. That a preliminary and permanent injunction issue restraining the defendants from enforcing, implementing or operating under 8 U.S.C. § 1582 (a)(28) and (d)(3)(A);

5. That a preliminary and permanent injunction issue directing the defendants to refrain from unconstitutionally withholding or denying MANDEL a non-immigrant visa and permission for admittance into the United States and further directing the defendants to acknowledge their readiness to immediately issue a non-immigrant visa and a permit for admission into the United States to MANDEL for the spring or fall of 1970 upon his request; and

6. That this Court grant such other and further relief as may be just and proper.

RABINOWITZ, BOUDIN &
STANDARD,

By:
LEONARD B. BOUDIN.

Office and Post Office Address:

30 East 42nd Street,
Borough of Manhattan,
City of New York.

Date: March 18, 1970.

EXHIBIT A

EMBASSY OF THE UNITED STATES OF AMERICA,

CONSULAR SECTION,

36 AVENUE DES ARTS,

Brussels 4, October 30, 1969.

Mr. ERNEST E. MANDEL,
127 rue Josse Impens,
Brussels 3.

DEAR MR. MANDEL: This is to confirm the information given to you orally on October 23, 1969, regarding the refusal of a visa to you and the waiver procedure for overcoming temporarily the grounds of refusal.

In March 1962, at the time of your application for a "working journalist" visa to tour the United States, the Department of State ruled that you were ineligible for a visa under Section 212(a)(28) of the Immigration and Nationality Act of 1952, as amended. A reproduction of that section of the INA is enclosed for your information. Until our discussion last week, I had assumed that you had been informed of this refusal.

In 1962 and again in 1968, upon Embassy recommendation, the Department of State and Immigration & Naturalization Service exercised their discretionary authority in giving you the benefit of temporary waivers on the grounds of ineligibility under Section 212(d)(3)(a) of the same Act (extract enclosed). However, last month, the request for a waiver submitted to Washington was denied by the same authorities.

Therefore, in bureaucratic parlance, you were "refused the visa" or "found to be ineligible and inadmissible" in 1962, "benefitted from a waiver" in 1962 and 1968, and were "denied a waiver" in 1969.

Another request for a waiver of the grounds of ineligibility and inadmissibility has been forwarded to the Department of State in connection with your application of October 22 for a visitor's visa to lecture and attend conferences at various institutions. As soon as a reply has been received you will be notified.

I trust that this has clarified the phraseology and the situation. I regret that you were not clearly informed, in 1962, of the refusal and subsequent discretionary procedure being followed.

Very truly yours,

(S) ALTA FOWLER,
American Consul.

Enclosures:

Extracts from Section 212 of Immigration and Nationality Act of 1952, as amended.

IMMIGRATION AND NATIONALITY ACT

(Section 212—Vol. 9—Visas—Part I)

Sec. 212(a)(28) Aliens who are, or at any time have been, members of any of the following classes:

- (A) Aliens who are anarchists;
- (B) Aliens who advocate or teach, or who are members of or affiliated with any organization that advo-

cates or teaches, opposition to all organized government;

(C) Aliens who are members of or affiliated with (i) the Communist Party of the United States, (ii) any other totalitarian party of the United States, (iii) the Communist Political Association, (iv) the Communist or any other totalitarian party of any State of the United States, of any foreign state, or of any political or geographical subdivision of any foreign state, (v) any section, subsidiary, branch, affiliate, or subdivision of any such association or party, or (vi) the direct predecessors or successors of any such association or party, regardless of what name such group or organization may have used, may now bear, or may hereafter adopt: *Provided*, That nothing in this paragraph, or in any other provision of this Act, shall be construed as declaring that the Communist Party does not advocate the overthrow of the Government of the United States by force, violence, or other unconstitutional means;

(D) Aliens not within any of the other provisions of this paragraph who advocate the economic, international, and governmental doctrines of world communism or the establishment in the United States of a totalitarian dictatorship, or who are members of or affiliated with any organization that advocates the economic, international, and governmental doctrines of world communism or the establishment in the United States of a totalitarian dictatorship, either through its own utterances or through any written or printed publications issued or published by or with the permission or consent of or under the authority of such organization or paid for by the funds of, or funds furnished by, such organization;

(E) Aliens not within any of the other provisions of this paragraph, who are members of or affiliated with any organization during the time it is registered or required to be registered under section 7 of the Subversive Activities Control Act of 1950, unless such aliens establish that they did not have knowledge or reason to believe at the time they became members of or affiliated with such an organization (and did not thereafter and

prior to the date upon which such organization was so registered or so required to be registered have such knowledge or reason to believe) that such organization was a Communist organization;¹

(F) Aliens who advocate or teach or who are members of or affiliated with any organization that advocates or teaches (i) the overthrow by force, violence, or other unconstitutional means of the Government of the United States or of all forms of law; or (ii) the duty, necessity, or propriety of the unlawful assaulting or killing of any officer or officers (either of specific individuals or of officers generally) of the Government of the United States or of any other organized government, because of his or their official character; or (iii) the unlawful damage, injury, or destruction of property; or (iv) sabotage;

(G) Aliens who write or publish, or cause to be written or published, or who knowingly circulate, distribute, print, or display, or knowingly cause to be circulated, distributed, printed, published, or displayed, or who knowingly have in their possession for the purpose of circulation, publication, distribution, or display, any written or printed matter, advocating or teaching opposition to all organized government, or advocating or teaching (i) the overthrow by force, violence, or other unconstitutional means of the Government of the United States or of all forms of law; or (ii) the duty, necessity, or propriety of the unlawful assaulting or killing of any officer or officers (either of specific individuals or of officers generally) of the Government of the United States or of any other organized government, because of his or their official character; or (iii) the unlawful damage, injury, or destruction of property; or (iv) sabotage; or (v) the economic, international, and governmental doctrines of world communism or the establishment in the United States of a totalitarian dictatorship;

(H) Aliens who are members of or affiliated with any organization that writes, circulates, distributes, prints, publishes or displays, or causes to be written, circulated, distributed, printed, published, or displayed, or that has in its possession for the purpose of circulation, distribu-

¹ See p. 96 for provisions of sec. 7, Subversive Activities Control Act of 1950.

tion, publication, issue, or display, any written or printed matter of the character described in paragraph (G);

(I) Any alien who is within any of the classes described in subparagraphs (B), (C), (D), (E), (F), (G), and (H) of this paragraph because of membership in or affiliation with a party or organization or a section, subsidiary, branch, affiliate, or subdivision thereof, may, if not otherwise ineligible, be issued a visa if such alien establishes to the satisfaction of the consular officer when applying for a visa and the consular officer finds that (i) such membership or affiliation is or was involuntary, or is or was solely when under sixteen years of age, by operation of law, or for purposes of obtaining employment, food rations, or other essentials or living and where necessary for such purposes, (ii) (a) since the termination of such membership or affiliation, such alien is and has been, for at least five years prior to the date of the application for a visa, actively opposed to the doctrine, program, principles, and ideology of such party or organization or the section, subsidiary, branch, or affiliate or subdivision thereof, and (b) the admission of such alien into the United States would be in the public interest. Any such alien to whom a visa has been issued under the provisions of this subparagraph may, if not otherwise inadmissible, be admitted into the United States if he shall establish to the satisfaction of the Attorney General when applying for admission to the United States and the Attorney General finds that (i) such membership or affiliation is or was involuntary, or is or was solely when under sixteen years of age, by operation of law, or for purposes of obtaining employment, food rations, or other essentials of living and when necessary for such purposes, or (ii) (a) since the termination of such membership or affiliation, such alien is and has been, for at least five years prior to the date of the application for admission, actively opposed to the doctrine, program, principles, and ideology of such party or organization or the section, subsidiary, branch or affiliate or subdivision thereof, and (b) the admission of such alien into the United States would be in the public interest. The Attorney General shall promptly make a detailed report to the Congress in the case of each alien

who is or shall be admitted into the United States under (ii) of this subparagraph; ¹

(29) Aliens with respect to whom the consular officer or the Attorney General knows or has reasonable ground to believe probably would, after entry, (A) engage in activities which would be prohibited by the laws of the United States relating to espionage, sabotage, public disorder, or in other activity subversive to the national security, (B) engage in any activity a purpose of which is the opposition to, or the control or overthrow of, the Government of the United States, by force, violence, or other unconstitutional means, or (C) join, affiliate with, or participate in the activities of any organization which is registered or required to be registered under section 7 of the Subversive Activities Control Act of 1950; ²

(30) Any alien accompanying another alien ordered to be excluded and deported and certified to be helpless from sickness or mental or physical disability or infancy pursuant to section 237(e), whose protection or guardianship is required by the alien ordered excluded and deported;

(31) Any alien who at any time shall have, knowingly and for gain, encouraged, induced, assisted, abetted, or aided any other alien to enter or to try to enter the United States in violation of law.

(b) The provisions of paragraph (25) of subsection (a) shall not be applicable to any alien who (1) is the parent, grandparent, spouse, daughter, or son of an admissible alien, or any alien lawfully admitted for permanent residence, or any citizen of the United States, if accompanying such admissible alien, or coming to join such citizen or alien lawfully admitted, and if otherwise admissible, or (2) proves that he is seeking admission to the United States to avoid religious persecution in the country of his last permanent residence, whether such persecution be evidenced by overt acts or by laws or governmental regulations that discriminate against such alien or any group to which he belongs because of his religious faith. For the purpose of ascertaining whether an alien can read under paragraph (25)

¹ See Act of August 20, 1954, p. 100, for certain immunities for persons compelled to testify.

² See p. 96 for provisions of sec. 7, Subversive Activities Control Act of 1950. See Act of August 20, 1954, p. 100, for certain immunities for persons compelled to testify.

of subsection (a), the consular officers and immigration officers shall be furnished with slips of uniform size, prepared under direction of the Attorney General, each containing not less than thirty nor more than forty words in ordinary use, printed in plainly legible type, in one of the various languages or dialects of immigrants. Each alien may designate the particular language or dialect in which he desires the examination to be made and shall be required to read and understand the words printed on the slip in such language or dialect.

(c) Aliens lawfully admitted for permanent residence who temporarily proceeded abroad voluntarily and not under an order of deportation, and who are returning to a lawful unrelinquished domicile of seven consecutive years, may be admitted in the discretion of the Attorney General without regard to the provisions of paragraph (1) through (25) and paragraphs (30) and (31) of subsection (a). Nothing contained in this subsection shall limit the authority of the Attorney General to exercise the discretion vested in him under section 211(b).

(d) (1) The provisions of paragraphs (11) and (25) of subsection (a) shall not be applicable to any alien who in good faith in seeking to enter the United States as a nonimmigrant.

(2) The provisions of paragraph (28) of subsection (a) of this section shall not be applicable to any alien who is seeking to enter the United States temporarily as a nonimmigrant under paragraph (15)(A)(iii) or (15)(G)(V) of section 101(a).

(3) Except as provided in this subsection, an alien (A) who is applying for a nonimmigrant visa and is known or believed by the consular officer to be ineligible for such visa under one or more of the paragraphs enumerated in subsection (a) (other than paragraphs (27) and (29)), may, after approval by the Attorney General of a recommendation by the Secretary of State or by the consular officer that the alien be admitted temporarily despite his inadmissibility, be granted such a visa and may be admitted into the United States temporarily as a nonimmigrant in the discretion of the Attorney General, or (B) who is inadmissible under one or more of the paragraphs enumerated in subsection (a) (other than paragraphs (27) and (29)), but who is in possession of appropriate documents or is granted a waiver thereof and is seeking admission, may be admitted into the United States temporarily as a nonimmigrant in the discretion of the Attorney General.

(4) Either or both of the requirements of paragraph (26) of subsection (a) may be waived by the Attorney General and the Secretary of State acting jointly (A) on the basis of unforeseen emergency in individual cases, or (B) on the basis of reciprocity with respect to nationals of foreign contiguous territory or of adjacent islands and residents thereof having a common nationality with such nationals, or (C) in the case of aliens proceeding in immediate and continuous transit through the United States under contracts authorized in section 238(d).

(5) The Attorney General may in his discretion parole into the United States temporarily under such conditions as he may prescribe for emergent reasons or for reasons deemed strictly in the public interest any alien applying for admission to the United States, but such parole of such alien shall not be regarded as an admission of the alien and when the purposes of such parole shall, in the opinion of the Attorney General, have been served the alien shall forthwith return or be returned to the custody from which he was paroled and thereafter his case shall continue to be dealt with in the same manner as that of any other applicant for admission to the United States.¹

(6) The Attorney General shall prescribe conditions, including exaction of such bonds as may be necessary, to control and regulate the admission and return of excludable aliens applying for temporary admission under this subsection. The Attorney General shall make a detailed report to the Congress in any case in which he exercises his authority under paragraph (3) of this subsection on behalf of any alien excludable under paragraphs (9), (10), and (28) of subsection (a).

(7) The provisions of subsection (a) of this section, except paragraphs (20), (21), and (26), shall be applicable to any alien who shall leave Guam, Puerto Rico, or the Virgin Islands of the United States, and who seeks to enter the continental United States or any other place under the jurisdiction of the United States.² The Attorney General shall by regulations

¹ See Act of July 25, 1958, p. 109, regarding the adjustment of status of certain Hungarian refugees.

See secs. 1, 2, 3, and 4, Act of July 14, 1960 (p. 114), regarding parole of certain refugees. (Secs. 1 and 2 repealed by the Act of October 3, 1965.)

² Sec. 23, Act of July 7, 1958 and sec. 20(b), Act of March 18, 1959 deleted references to Alaska and Hawaii and the latter Act deleted the proviso to the first sentence which read: "Provided, That persons who were admitted to Hawaii under the last sentence of section 8(a) (1) of the Act of March 24,

provide a method and procedure for the temporary admission to the United States of the aliens described in this proviso. Any alien described in this paragraph, who is excluded from admission to the United States, shall be immediately deported in the manner provided by section 237(a) of this Act.

(8) Upon a basis of reciprocity accredited officials of foreign governments, their immediate families, attendants, servants, and personal employees may be admitted in immediate and continuous transit through the United States without regard to the provisions of this section except paragraphs (26), (27), and (29) of subsection (a) of this section.

EXHIBIT B

DEPARTMENT OF STATE,

ADMINISTRATOR,

BUREAU OF SECURITY AND CONSULAR AFFAIRS,

Washington, November 6, 1969.

Mr. LEONARD B. BOUDIN

Attorney at Law,

30 East 42nd Street,

New York, New York 10017.

DEAR MR. BOUDIN: Your letter of October 24 addressed to the Under Secretary has been referred to me for reply in view of his absence from the country. You request that the Under Secretary meet with a group of academicians to discuss the case of Ernest Mandel who was refused a visa by our Embassy at Brussels in September. Mr. Mandel has recently applied for a visa to visit the U.S. to participate in several scholarly conferences and to fulfill a number of speaking engagements.

Under the Immigration and Nationality Act of 1952, Mr. Mandel is ineligible for a visa or for admission to the U.S. because of his affiliation with certain organizations. In 1962 and again in 1968, waivers of ineligibility were sought and obtained from the Attorney General and visas were issued to Mr.

1934, as amended (48 Stat. 456), and aliens who were admitted to Hawaii as nationals of the United States shall not be excepted by this paragraph from the application of paragraphs (20) and (21) of subsection (a) of this section, unless they belong to a class declared to be nonquota immigrants under the provisions of section 101(a) (27) of this Act, other than subparagraph (C) thereof, or unless they were admitted to Hawaii with an immigration visa."

Mandel to enable him to come to the United States to write articles for a Belgian publication and to fulfill speaking engagements. As is usual in such cases, the waivers were granted on the condition that Mr. Mandel conform to his stated itinerary and limit his activities to the stated purposes of his trip. On his 1968 visit, Mr. Mandel engaged in activities beyond the stated purposes of his trip. For this reason, a waiver of ineligibility was not sought in connection with his September visa application.

However, we have now learned that in 1962 and 1968 Mr. Mandel was apparently not informed that a visa was issued only after obtaining a waiver of ineligibility and therefore may not have been aware of the conditions and limitations attached to the visa issuance. In view of this and his assurances, given in connection with his current application, that he will conform to his stated itinerary and purposes, we are reconsidering his case and are discussing it with the Department of Justice. As you know, authority to grant waivers of ineligibility in such cases rests solely with the Attorney General.

We are well aware of the interest and concern of the academic community in this matter. And in view of the present status of the case we do not believe a meeting such as you suggest is necessary. I will be happy to inform you promptly of the final decision in the case.

Sincerely,

(S) Barbara M. Watson
BARBARA M. WATSON.

EXHIBIT C

AFowler/MFN/mfn

EMBASSY OF THE UNITED STATES OF AMERICA,
CONSULAR SECTION,
AVENUE DES ARTS 36,
1040 Bruxelles, le 1^r décembre 1969.

Monsieur ERNEST E. MANDEL,
rue Jos. Impens 127,
1030 Bruxelles.

MONSIEUR, Je me réfère à votre demande de visa pour les Etats-Unis et à la demande d'obtenir une dérogation en vertu du par. 212 (d)(3)(a) aux causes d'inéligibilité d'admission trouvées dans votre cas.

Confirmant le message téléphonique qui vous a été remis samedi le 29 novembre dernier par Monsieur Elmendorf, je dois vous informer que la demande de dérogation a été refusée par les autorités à Washington D.C. Je regrette que cet avis ne vous ait pas été communiqué plus tôt, l'Ambassade n'ayant pas été avisée de ce refus avant samedi matin.

Veuillez agréer, Monsieur, l'assurance de ma considération distinguée.

(S) Alta Fowler

ALTA FOWLER,

Consul des Etats-Unis

d'Amérique.

[Caption Omitted]

To the above named Defendants:

You are hereby summoned and required to serve upon Rabinowitz, Boadin & Standard, plaintiff's attorney, whose address is 30 East 42nd Street, New York City, New York 10017 an answer to the complaint which is herewith served upon you, within 60 days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint.

LEWIS ORGEL,

Clerk of Court.

By JAMES R. ABRAM,

Deputy Clerk.

Date: March 19, 1970.

Note:—This summons is issued pursuant to Rule 4 of the Federal Rules of Civil Procedure.

[Caption Omitted]

AMENDED COMPLAINT

Plaintiffs amend their complaint, as of course, under the provisions of Rule 15(a) of the Federal Rules of Civil Procedure as follows:

1. Page 1, paragraph 1, line 4, after 28 U.S.C. §§ 1331, 1361 insert the following: , 1337.
2. Page 7, paragraph 6.b., line 2, after Brooklyn, New York insert the following: ; Professor Noam Chomsky of the Department of Linguistics, Massachusetts Institute of Technology, residing in Lexington, Massachusetts; Professor Richard A.

Falk of the Center of International Studies, Princeton University, residing in Princeton, New Jersey.

RABINOWITZ, BOUDIN &
STANDARD,

By: Leonard B. Boudin

30 East 24nd Street,
New York, New York 10017;
Telephone: Oxford 7-8640.

Dated: May 11, 1970

[Caption Omitted]

NOTICE OF MOTION

SIR: PLEASE TAKE NOTICE that, upon the annexed affidavit of Leonard B. Boudin, sworn to May 22, 1970, and on the complaint in this action, plaintiffs, by their undersigned counsel, will move this Court at a motion term thereof to be held on the 12th day of June, 1970, at 10:00 A.M. o'clock in the forenoon, at the Federal Courthouse, 225 Cadman Plaza East, Brooklyn, New York, for an order, pursuant to 28 U.S.C. Sections 2282 and 2284, convening a three-judge District Court to hear and decide the merits of the above entitled action, and for an order, pursuant to Rule 65 of the Federal Rules of Civil Procedure, granting a preliminary injunction restraining the defendants from enforcing, implementing and operating under 8 U.S.C., Section 1182, subsections (a)(28) and (d)(3) (A), and granting plaintiffs such other and further relief as to this Court may seem just and proper.

PLEASE TAKE FURTHER NOTICE that defendants are required to serve upon undersigned counsel a copy of their opposing papers and memorandum not later than three days before the return date of this motion.

Dated: New York, N.Y.
May 22, 1970

Yours, etc.,

(S) Leonard B. Boudin.

LEONARD B. BOUDIN,

RABINOWITZ, BOUDIN & STANDARD

30 East 24nd Street,
New York, N.Y. 10017

Attorneys for Plaintiffs.



To:

UNITED STATES ATTORNEY FOR THE
EASTERN DISTRICT OF NEW YORK,
225 Cadman Plaza East,
Brooklyn, New York.

[Caption Omitted]

STATE OF NEW YORK

County of New York, ss.:

LEONARD B. BOUDIN, being duly sworn, deposes and says:

1. I am a member of the firm of Rabinowitz, Boudin & Standard, attorneys for the plaintiffs in the above entitled action. This affidavit is submitted in support of plaintiffs' annexed motion for the convening of a three-judge district court pursuant to 28 U.S.C. §§ 2282, 2284 and for the issuance of a preliminary injunction restraining defendants from enforcing, implementing and operating under certain provisions of the McCarran Act of 1952 discussed in detail below.

2. All of the facts and circumstances related below are within my personal knowledge, except where I have specifically indicated otherwise.

3. This case arises out of the determination of the defendants to bar from entry into the United States Ernest Mandel, a citizen of Belgium. Mr. Mandel is an internationally noted Marxist scholar in the fields of economic history and theory. He is the editor-in-chief of the Belgian Left Socialist weekly, *La Gauche*. He is also the author of several books, most notably a two volume work entitled *Marxist Economic Theory* (1969), which is considered the major, contemporary work in its field.

Scholars and students in the United States have been increasingly anxious to hear Mr. Mandel speak and to exchange information and ideas with him. Thus, in the fall of 1968, Mr. Mandel accepted invitations to speak from more than 30 universities throughout the United States and Canada. He spoke at, among other universities, Harvard, Berkeley, Swarthmore, Notre Dame, Antioch and Michigan. He made three appearances at Columbia and two at the University of Pennsylvania. In addition, Mr. Mandel gave the keynote address at the 1968 Socialist Scholars Conference held at Rutgers University.

Last year, Mr. Mandel received two separate invitations to speak. These invitations were issued by some of the named

plaintiffs in this action (hereinafter referred to as the "American plaintiffs") who are distinguished and nationally and internationally known scholars and by other citizens of the United States, primarily members of the academic community.

The first invitation sought Mr. Mandel's participation at a conference to be held on October 17-18, 1969 at Stanford University under the co-sponsorship of the University and its Graduate Student Association. (See Exhibit A annexed hereto.) Featured as part of this conference, entitled "Technology and the Third World", was to be an address by Professor John Kenneth Galbraith of Harvard and former Ambassador to India and a second major address the following day by Mr. Mandel. The format was designed to resemble a debate. Mr. Mandel was to participate in a panel discussion after Professor Galbraith's speech, and Professor Galbraith would likewise participate in a panel discussion following Mr. Mandel's speech. (See exhibit B annexed hereto).

The second invitation actually involved a series of requests to speak and lecture at various universities and public forums in late November and early December, 1969. This tour was to begin with Mr. Mandel's participation in seminars at Princeton University on November 26th and 27th. (See Exhibit C annexed hereto.) There was to follow an address on November 29th at Town Hall in New York City as part of a day-long conference on the theme "Agencies of Social Change; Towards a Revolutionary Strategy for Advanced Industrial Countries." This conference was jointly sponsored by the Bertrand Russell Peace Foundation and the Socialist Scholars Conference. The title of Mr. Mandel's speech was "Revolutionary Strategy in the Imperialist Countries." Mr. Mandel was also scheduled to lecture and to participate in seminars under the sponsorship of the Department of Anthropology at Amherst College on December 1st. This invitation was extended by the plaintiff Professor Norman Birnbaum, who requested that in addition to addressing a seminar on Marxist economic theory, Mr. Mandel would be asked to give a general college lecture on the current social and political situation in Western Europe. (See Exhibit D annexed hereto.) Following this, Mr. Mandel's schedule included an appearance at Columbia University at the behest of the Department of Philosophy on December 3rd. The next day, he was to attend a conference sponsored jointly by the Science Action Co-Ordinating Committee and the Fund

for New Priorities in America, to be held at the Massachusetts Institute of Technology. The conference was to last through the 5th, and Mr. Mandel was to participate as a member of a panel to explore the "Problems of Conversion from Military to Civilian Production in the Economy." Among the noted scholars scheduled to participate with Mr. Mandel were Professor Galbraith, Professor Noam Chomsky of M.I.T., and a plaintiff in this action, Professor Daniel P. Moynihan of Harvard and Dr. S. E. Luria, Nobel Laureate in microbiology. (See Exhibit E annexed hereto.) On the evening of the 4th, Mr. Mandel was also scheduled to lecture to the graduate faculty at the New School for Social Research in New York City. (See Exhibit F annexed hereto.) Mr. Mandel's final engagement was to be his attendance at a conference on December 5-6, 1969 at Vassar College. Scheduled to participate along with Mr. Mandel were Andre Gorz, editor of *Les Temps Modernes*, and Professor Herbert Marcuse, of the University of California at San Diego.

4. In connection with the first invitation involving the Stanford University conference, Mr. Mandel submitted an application for a non-immigrant visa dated September 8, 1969 to the American Consul in Brussels. (See Exhibit G annexed hereto). The application sought permission for entry into the United States for six days for the specific purpose of attending the Stanford conference. In answer to questions 30 and 32 on the application with respect to membership in the Communist Party or its affiliates, Mr. Mandel stated, as he had on his previous application in 1968 (See Exhibit R annexed hereto) that he did not hold and had never held such membership. (See Exhibit G).

On October 23, 1969, five days after the end of the Stanford conference, Mr. Mandel received the first notification, verbally, from the Consul, that his application had been denied. No reason was given at that time, nor in a letter dated October 30, 1969 from the Consul to Mr. Mandel confirming the denial. (See Exhibit H annexed hereto). The letter simply cited the State Department's authority under 8 U.S.C. § 1182(a)(28) (hereinafter referred to as the "political exclusionary provision") to exclude aliens because of their unapproved political beliefs or associations.

This cited provision was adopted as part of the comprehensive enactment governing immigration and naturalization,

popularly known as the McCarran Act. The exclusionary provision enumerates three principal classes of aliens who are declared ineligible to receive non-immigrant visas for temporary entry into the United States.

The first class encompasses "anarchists"; the second those who teach or advocate or who are members of or affiliated with organizations which teach or advocate "opposition to all forms of government." 8 U.S.C. § 1182(a)(28)(B).

The chief contribution of the McCarran Act to existing law in the area of political exclusion was the addition of a third classification which forbids issuance of visas to aliens who are members of or affiliated with any Communist Party or its successors and satellites. Included within this class are aliens who advocate "the economic, international and governmental doctrine of world communism or the establishment in the United States of a totalitarian dictatorship" or who are members of organizations that do so. See 8 U.S.C. § 1182(a)(28)(D). Also included are aliens who advocate violent overthrow of the Government of the United States "or of all forms of law". See 8 U.S.C. § 1182(a)(28)(F). Printing, publishing or possessing literature expressing these proscribed views is made a further basis for ineligibility. See 8 U.S.C. § 1182(a)(28)(G).

The Consul's letter also advised Mr. Mandel that he had been considered politically ineligible to receive a nonimmigrant visa since his first application for such a visa in 1962. (See Exhibit I annexed hereto.) In fact, although the Consul admits Mr. Mandel was "not clearly informed" of this, his entry in 1962 as a journalist and in 1968 for his speaking tour was pursuant to a waiver of ineligibility by the Attorney General upon the Secretary of State's recommendation, as provided for by 8 U.S.C. § 1182(d)(3)(A). According to the Consul, a similar recommendation with respect to Mr. Mandel's September, 1969 application was denied.

5. These facts were subsequently confirmed in a letter dated November 6, 1969, from the Administrator of the Bureau of Security and Consular Affairs of the Department of State to plaintiffs' counsel: (See Exhibit J annexed hereto). However, the Administrator added that the waivers of ineligibility in 1962 and 1968 "were granted on the condition that Mr. Mandel conform to his stated itinerary and limit his activities to the stated purposes of his trip." It was alleged by the Administrator

that "[o]n his 1968 visit, Mr. Mandel engaged in activities beyond the stated purpose of his trip." Contrary to the Consul's advice, the Administrator stated that because of this alleged violation "a waiver of ineligibility was not sought in connection with his September visa application."

But the Administrator did specifically confirm the fact that "Mr. Mandel was apparently not informed that a visa was issued (in 1962 and 1968) only after obtaining a waiver of ineligibility and therefore may not have been aware of the conditions and limitations attached to the visa issuance."

6. On October 24, 1969, Mr. Mandel submitted an application for a non-immigrant visa in order to participate in the various conventions and seminars in late November and early December, 1969. (See Exhibit K annexed hereto). Again, Mr. Mandel answered questions 30 and 32 on the application in the negative. The application was accompanied by letters dated October 23 and 24, 1969 from Mr. Mandel to the American Consul detailing the itinerary of conventions and seminars to the extent that the dates and places were known to him. (See Exhibit L annexed hereto). These letters included specific assurances that he would strictly confine his activities to the stated itinerary.

Mr. Mandel further assured the Consul by letter on November 10, 1969 that he would not appear at any assembly in the United States at which money was solicited for any political cause. This was apparently in response to a charge that he had been present at such a solicitation during his 1968 tour. (See also Exhibit L).

Of course, just as Mr. Mandel had no prior notice that he was required to adhere to a stated itinerary in 1968, so Mr. Mandel was not aware that he was forbidden from appearing where contributions were solicited for political causes. I have been advised by Mr. George Novack, an American citizen, who coordinated Mr. Mandel's 1968 tour, that in fact the event in question was a cocktail reception held at the Gotham Art Theatre in New York City on October 19, 1968. Mr. Mandel addressed the gathering on the events in France during May and June. Later that evening posters by French students were auctioned. The money was sent to aid the legal defense of students who had taken part in the spring demonstrations. Mr. Mandel did not participate in the fund raising. (See Ex. L., Oct. 30, 1969 letter).

With respect to Mr. Mandel's October application, the Administrator in her November 6th letter concluded that based on Mr. Mandel's misunderstanding regarding the basis of prior admissions and "his assurances, given in connection with his current application, that he will conform to his stated itinerary and purposes", the Department would reconsider his case. (See Exhibit J). Upon reconsideration and, as the Department informed concerned organizations, "in the interest of free expression of opinion and exchange of ideas," the Secretary of State requested a waiver of ineligibility for the October 24, 1960 application. (See Exhibit M annexed hereto).

7. On November 29, 1969, however, the day of Mr. Mandel's scheduled speech at Town Hall in New York City, the American Consul in Brussels verbally notified him that the requested waiver of ineligibility had been summarily denied by the Attorney General. This was confirmed by letter dated December 1, 1969, which like the prior verbal communication gave no reason for the Attorney General's action. (See Exhibit N annexed hereto.) While Mr. Mandel was able to address the Town Hall audience through a trans-Atlantic telephone hook-up, the remaining portion of his tour was irreparably interrupted. (A printed copy of Mr. Mandel's Town Hall speech is annexed hereto as Exhibit O.)

8. Two written requests for an explanation directed to the Attorney General by plaintiffs' counsel were ignored. Finally, in response to a third request (see Exhibit P annexed hereto), James F. Greene, Associate Commissioner of the Immigration and Naturalization Service of the Department of Justice (hereinafter referred to as the "INS") advised plaintiffs' counsel that since Mr. Mandel was "ineligible for a visa because of his subversive affiliations" his entry into the United States depended entirely upon approval of the Secretary's recommendation of waiver by the INS, acting in behalf of the Attorney General. (Mr. Greene's letter is annexed hereto as Exhibit Q.) This recommendation was rejected, according to Mr. Greene, because Mr. Mandel's entry in 1968 "was authorized for a series of academic engagements" and "[h]is activities, while here, were much reported in the press and went far beyond the stated purposes of his trip, on the basis of which his admission had been authorized." Although Mr. Greene never specified the "activities" to which he is referring, the "activities" in Mr. Green's view "represented a flagrant abuse of the opportunities

afforded [Mr. Mandel] to express his views in this country." Mr. Greene concluded:

Accordingly, when the recent recommendation was made that he be permitted to enter for a third time, it was concluded that the favorable exercise of discretionary authority provided under the Immigration and Nationality Act was not warranted, and his temporary admission was not authorized.

In answer to counsel's request for further review of the matter, Mr. Greene asserted that "[t]here is no basis for changing this determination."

At no time since has Mr. Mandel or plaintiffs' counsel been notified either by the Secretary of State or the Attorney General of the exact nature of this "flagrant abuse" allegedly committed by Mr. Mandel. Nor has the Attorney General ever provided an explanation for characterizing Mr. Mandel's activities in 1968 as a "flagrant abuse", particularly in view of the Secretary of State's clear finding that Mr. Mandel was probably not aware of the basis of his admission and the conditions of such admission. Mr. Greene's failure to indicate any factual basis which might controvert the Secretary's finding is a conspicuous omission especially since adequate notification of conditions and circumstances of admission was the sole responsibility of the Department of State and within the exclusive knowledge of that Department's officials.

Furthermore, Mr. Greene gives no reason why the Secretary of State erred in accepting Mr. Mandel's assurances that having received sufficient notification of his obligations he would scrupulously abide by the conditions on admission if permitted entry in November, 1969. What but pure caprice could motivate exclusion and prior censorship in the face of Mr. Mandel's pledge that he would not digress from his stated itinerary and that he would neither be present at nor participate in any fund-raising event.

Equally inexplicable except in terms of caprice and discrimination is the apparent conclusion of the Secretary of State and the Attorney General that Mr. Mandel has a "subversive affiliation" despite his consistent and unqualified declaration on his 1968 and 1969 visa applications that he is not and has never been a member of or affiliated with the Communist Party or its successors or satellites. (See Exhibits G, K and R). No evidence has ever been presented by the defendants to the contrary because in fact no such evidence exists.

While the various determinations concerning Mr. Mandel made by the defendants which have triggered the operation of the exclusionary provision or resulted in a denial of a waiver are supported by neither substantive nor any evidence, these determinations were also summarily reached without affording Mr. Mandel a hearing at which he would have the opportunity to test the credibility, relevance or materiality of the information which prompted these decisions.

9. Some of the American plaintiffs and other citizens of the United States have issued invitations to Mr. Mandel to participate in seminars and lectures at various universities and public forums during the spring or fall of this year. Because of the fixed determination of the Secretary of State that Mr. Mandel has "subversive affiliations" and is therefore ineligible for a visa under the political exclusionary provision and the Attorney General's equally fixed determination that "favorable exercise of [his] discretionary authority * * * [is] not warranted", the American plaintiffs anticipate that they will again be arbitrarily denied their right to hear and to engage in an academic inquiry with Mr. Mandel. Furthermore, in order that his personal and public schedule may be settled and not again suddenly disrupted, Mr. Mandel has expressly conditioned his acceptance of these future speaking invitations on assurances by the American plaintiffs that the defendants will not again enforce the exclusionary provision against him nor in any other way arbitrarily and discriminatorily bar his entry.

10. The American plaintiffs have commenced this action for the purpose of establishing and enforcing their constitutional right to hear Mr. Mandel and to freely engage in an academic inquiry and exchange of information with him. The exclusionary and waiver provisions of the McCarran Act are challenged as being in violation of the First and Fifth Amendments to the Constitution because on their face and as applied generally and specifically in Mr. Mandel's case, they invest the defendants with a power of arbitrary and absolute censorship over the ideas and information to which the general public as well as the academic community may have access. The exclusion of Mr. Mandel also presents a case of individual discriminatory exclusion since the basis for the defendants' action, barring his entry is entirely without substantial or any supporting evidence, was made without essential procedural safeguards designed to mini-

mize the effect of the censorship apparatus installed by the McCarran Act and was in every sense a purely capricious exercise of discretion.

11. Preliminary injunctive relief is sought by the instant motion because the American plaintiffs are suffering and will continue to suffer irreparable impairment and denial of the First Amendment rights. Until the rights of the plaintiffs are declared and enforced they will be unable to make the necessary and appropriate plans for Mr. Mandel's upcoming public and university appearances. The certain action by the defendants under the challenged provisions of the McCarran Act to bar Mr. Mandel from meeting with American scholars and students, like the defendants' actions in 1969, makes it impossible for plaintiffs to carry on fund-raising, make financial arrangements, issue publicity, and set definite dates, times and places for Mr. Mandel's appearances in this country. Quite clearly the American plaintiffs cannot constitutionally be placed in the position of having undertaken the difficult and expensive task of planning for these appearances only to be subject to the summary, abrupt and whimsical determination of the defendants to deny their First Amendment rights by barring Mr. Mandel's entry into the country.

12. No prior application has been made for the relief requested by the annexed motion.

(S) Leonard B. Boudin

LEONARD B. BOUDIN.

SWORN to before me this 22nd day of May, 1970.

(S) Theresa Silverstein,

THERESA SILVERSTEIN,

Notary Public, State of New York,

No. 31-3673040

Qualified in New York County,

Commission Expires March 30, 1971.

EXHIBIT A

STANFORD UNIVERSITY,

Stanford, Calif., August 20, 1969.

Mr. ERNEST MANDEL,
Brussels 3,
127 Rue Josse Impens,
Belgium.

DEAR MR. MANDEL: Stanford University heartily endorses the invitation extended to you by the Graduate Student Asso-

ciation to speak at the conference on "Technology and the Third World" on October 17 and 18, 1969. I hope very much that you can accept, and we shall do our best to make you welcome here.

With best wishes.

Sincerely yours,

(S) Frederic O. Glover

FREDERIC O. GLOVER,

Executive Assistant to the President.

cc: Mr. Richard B. Miles

EXHIBIT B

STANFORD UNIVERSITY,

Stanford, Calif., August 20, 1969.

Prof. ERNEST MANDEL,

127 Rue Josse Impens,

Brussels 3, Belgium.

DEAR PROFESSOR MANDEL: The Stanford Graduate Student Association is sponsoring a conference entitled "Technology and the Third World" on October 17 and 18. Professor John Kenneth Galbraith has agreed to present the keynote speech on Friday night, October 17, to begin the conference. His speech will be followed by discussion with a panel composed of people with differing opinions. The conference will continue all day Saturday, October 18, commencing with another major address and followed by a similar discussion. Late Saturday morning we will have a panel confront the problem of transferring technology to Peru, and Saturday afternoon a number of panels will discuss various related problems.

We would like you to deliver the Saturday address and participate on the panel following Galbraith's speech. We expect that, similarly, Galbraith will participate on the panel following your speech.

The purpose of this conference is to deal with the problems and the interpretations of the problems surrounding the interaction of technically advanced countries with underdeveloped countries. We expect to discuss such things as by what methods should technology be transferred and what are the effects on the underdeveloped country of different methods of transference? How should education be dealt with? Is it the responsibility of developed countries to educate or is it a form of

exploitation? Does a population problem exist and is it a technical problem? Et cetera.

The Stanford community has been involved in Peru through the Business School, Stanford Research Institute, Peace Corps, and individual experiences. We plan to use this expertise to examine in depth the problems of the development of Peru with the expectation that many of the problems encountered there are the types of problems found in development throughout the Third World.

We certainly will be honored if you can come. We are prepared to offer you \$1,000 to cover travel and incidentals. Your opinions will provide a contrast to those of Professor Galbraith and others participating.

Sincerely,

(S) Richard B. Miles

Chairman, Graduate Student Association.

cc: President K. S. Pitzer

Dr. H. Donald Winbigler

EXHIBIT C

DEPARTMENT OF PHILOSOPHY,
1879 HALL, PRINCETON UNIVERSITY,
Princeton, N.J., September 29, 1969.

PROF. ERNEST MANDEL,
*127 Rue Josie Impens,
Brussels 3, Belgium.*

DEAR PROFESSOR MANDEL: I write to ask you to speak at two colloquia here at Princeton during your visit to this country. There are a number of us here who are very much interested in your work and greatly look forward to the opportunity of talking to you. The first colloquium, attended by a group of about 30 graduate students and faculty, is sponsored by the Program in Political Philosophy of which I am the chairman. The second is a 15-member faculty seminar on European Studies, directed by Professor Nicholas Wahl. In each, the usual program is a talk of about an hour in length followed by discussion for an hour. We could arrange to have the colloquia on successive days sometime before December 11.

Professor Wahl tells me that the European Studies Seminar would be very interested to hear your assessment of the pros-

pects of Marxism in Europe. For the Political Philosophy group, I think that a rather more theoretical discussion would be suitable. But the choice of topic is of course left entirely to you. We are able to offer an honorarium of \$250. In addition we would, of course, arrange accommodation for you in Princeton and defray your expenses in traveling to and from Princeton.

I do very much hope that you will be able to accept.

Yours sincerely,

(S) Stuart Hampshire
STUART HAMPSHIRE,
Chairman.

EXHIBIT D

AMHERST COLLEGE,
Amherst, Massachusetts • 01002, October 16, 1969.

Mr. ERNEST MANDEL,
127 Rue Josse Impens,
Bruxelles 3, Belgium.

DEAR MR. MANDEL: I gather from colleagues in other universities that you are planning a trip to the United States in November. I am writing on behalf of the Department of Sociology to invite you to visit Amherst College. We would be prepared to pay for your travel expenses from New York and to offer you an honorarium of \$150 if you would agree to make a presentation to one of our advanced seminars. The theme of this year's seminar is, in fact, Marxism and in particular we would be very pleased to hear from you in connection with your work on Marxist economic theory. I am also authorized to inquire as to whether you would be prepared, in addition to your seminar presentation, to address a larger group of students in a general college lecture. In this case we would ask you to speak on the current social and political situation in Western Europe.

I would be very glad for an early reply, at which point we can proceed to set an exact date.

Yours sincerely,

(S) Norman Birnbaum
NORMAN BIRNBAUM,
Professor of Sociology.

NB: jm

EXHIBIT E

SCIENCE ACTION CO-ORDINATING
COMMITTEE,
WALKER MEMORIAL BUILDING, ROOM 316
MASSACHUSETTS INSTITUTE OF TECHNOLOGY,
CAMBRIDGE, MASS. 02139,
(617) 491-8117,
October 16, 1969.

Dr. ERNST MANDEL,
127, rue Josse Impéris,
Brussels 3, Belgium.

DEAR DR. MANDEL: On behalf of the Science Action Co-ordinating Committee, (SACC) and the Fund for New Priorities in America, I would like to invite you to participate in a National Conference on Social and Economic Conversion, sponsored jointly by the two organizations, to be held in Cambridge at MIT on December 3, 4 and 5 of this year. SACC, composed primarily of undergraduate and graduate students at MIT, conceived of and co-sponsored last spring's March 4 research stoppage protesting society's misuse of science and technology. The Fund for New Priorities has sponsored conferences in Washington on the Military Budget, on National Priorities and on Destruction of the Environment.

Much of the present political, social and economic activity is misdirected, wasteful or destructive, and does not respond to the needs of large segments of society. Conversion to a society that constructively and effectively satisfies the needs of all its members entails changing both the awareness of individuals and the structure of their political, social and economic institutions. This conception differs radically both in nature and in extent from the restricted view that conversion is simply adjustment of the economy to disarmament. It is the larger conception of conversion that the Conference will address.

An outline of the Conference schedule is enclosed. I would like to invite you to participate as one of the panelists in the Thursday sessions, morning and afternoon, dealing with economic aspects of conversion. We are planning both these sessions around a ten-member-panel, in which we have invited the following others to participate: J.K. Galbraith and Samuel Bowles, economists; Noam Chomsky, political and social analyst; Seymour Melman, authority on conversion; J.B.

Neilands, authority on ecology and environment; D.P. Moynihan, authority on urban affairs; Kenneth Cockrel, lawyer for minority groups; Harvey Swados, writer; and Susan Sontag, writer and critic. Each session will open with four ten-minute presentations to the panel. The morning presentations, dealing with affluent sectors of the economy, will be made by a representative of management, a union representative, a member of one of the militant union caucuses, and a member of SACC; the afternoon presentations, dealing with depleted sectors of the economy, will be made by a union organizer from agriculture; a participant involved in health and medical care, a third participant to be chosen, and a member of SACC. We plan the panel discussion departing from each set of presentations to last about two hours, to be followed by questions from the floor. We feel that an analysis of the social and economic structure of the United States from your particular perspective would complement those of the other participants and be of great value to the Conference.

The session of Thursday evening December 4 is planned as a set of concurrent informal seminars on various aspects of conversion given by participants in the Conference. We hope that, in addition to your participation on the panel, you would be interested in presenting one such seminar on a topic of your choice.

We expect those attending the Conference to include members of the MIT and the greater Boston academic community; residents of the Boston area, industrial and scientific workers from the New England area; and economists and legislators from Washington. We hope to televise at least some of the sessions, and the proceedings will appear in book form after the Conference. We will, of course, assume your travel expenses in the United States and arrange accommodation in Cambridge.

We are very eager to have your participation in the Conference. We hope you will be able to accept this invitation, and to let us know as soon as possible whether you plan to attend. I will be happy to answer any questions or supply more information.

Yours sincerely,
(S) ETHAN SIGNER,

for SACC.

EXHIBIT F

THE GRADUATE FACULTY, NEW SCHOOL FOR
SOCIAL RESEARCH, 65 FIFTH AVENUE, NEW
YORK, N.Y. 10003, MAILING ADDRESS: 66 WEST
12TH STREET, NEW YORK, N.Y. 10011, OREGON
5-2700.

DEPARTMENT OF ECONOMICS

October 1, 1969.

Dr. ERNEST MANDEL,
127 rue Josee Impens,
Brussels 3, Belgium.

DEAR DR. MANDEL: I understand from Arthur Felderbaum that you will be in the United States this winter, and I am writing because we would like very much to arrange for you to give a lecture here at the New School.

Would it be possible to make a tentative engagement with you for December 4th—a Thursday evening—at 8:00 o'clock? I am afraid that we can only offer \$100 as an honorarium, but I can promise you a most attentive and interested audience. In addition, I look forward very much to the pleasure of making your acquaintance. As you probably know, I admire your book on Marxian theory very much.

Sincerely,

(S) Robert L. Heilbroner
ROBERT L. HEILBRONER,
Chairman.

RLH: 1b

EXHIBIT G

155647-17437

Prior () Tit No. _____
 Expires Q 1972
 Loc _____ Loc _____ OAC _____
 Chs _____ From _____ Rtd _____ By _____ Rcd _____
 Dgt - 46 07 01 2
 B-1 B-2 B-1 B-2
 Interviewed by CAF
 Issued by _____
 Issued on _____
 For Multiple or _____ Appls.
 During 48 mos. or _____ mos.

FS 495

INSCRIVEZ PAS DANS L'ESPACE CI-DESSUS RESERVE AU SERVICE

1. NOM DE FAMILLE <u>MANDEL</u>		PRENOM USUEL <u>Eduard</u>		AUTRES PRENOMS <u>ESRA</u>	
2. AUTRES NOMS COMPRENSIF NOM DE JEUNE FILLE, DE DIVORCE, PSEUDONYM, ETC.				3. NATIONALITE <u>BELGE</u>	
4. LIEU DE NAISSANCE (Ville, Département, Pays) <u>Bruxelles, Belgique</u>				5. DATE DE NAISSANCE (Jour, Mois, Année) <u>5 4 1923</u>	
6. DOIGT <u>Doigt, 1er, 2e, 3e, 4e, 5e</u>				TELEPHONE <u>16.95.43</u>	
8. ADRESSE COMMERCIALE				9. TELEPHONE	
10. PROFESSION <u>Travailleur</u>				11. SEXE <u>Homme</u>	
12. CHEVEUX (Couleur) <u>Châtain</u>	13. YEUX (Couleur) <u>Vert</u>	14. TAILLE <u>1m 81</u>	15. TEINT (Clair, Coloré, etc.) <u>Brûlé</u>		
16. SIGNES PARTICULIERS (Cicatrices, tatouages, etc.) <u>Ruisselures</u>					
17. SITUATION DE FAMILLE <input checked="" type="checkbox"/> Marié <input type="checkbox"/> Célibataire <input type="checkbox"/> Veuf <input type="checkbox"/> Divorcé (le)					
19. BUT DU VOYAGE AUX ETATS-UNIS (Tourisme, affaires, visite de la famille ou des amis, etc.) <u>Conférence à l'Université de Stanford (visite de la ville)</u>					
18. DUREE DU SEJOUR ENVISAGE AUX ETATS-UNIS <u>6 jours</u>			20. DATE APPROXIMATIVE DU DEPART POUR LES ETATS-UNIS <u>14 octobre 1969</u>		
21. QUI COUVRIRA VOS FRAIS DE TRANSPORT ET DE SEJOUR? (Vous-même, votre société, votre frère ou sœur, etc.) <u>Stanford University (voir lettre jointe)</u>					
22. VOUS ENVOYER-IL UN DOCUMENT AUX ETATS-UNIS? <input type="checkbox"/> Oui <input checked="" type="checkbox"/> Non			23. VOUS ENVOYER-IL UN DOCUMENT A VOTRE PAYS D'ORIGINE? <input type="checkbox"/> Oui <input checked="" type="checkbox"/> Non		

24. INDIQUEZ OÙ ET AP. JAIMATIVEMENT QUAND VOUS AVEZ DEMANDE POUR LA DERNIERE FOIS UN VISA POUR LES ETATS-UNIS

en L 1966

25. PRECISEZ



Visa accordé



Visa refusé



Demande abandonnée

26. AVEZ-VOUS JAMAIS DEMANDE UN VISA D'IMMIGRATION POUR LES ETATS-UNIS ?



Oui



Non

27. DEPUIS COMBIEN DE TEMPS VIVEZ-VOUS DANS LE PAYS OÙ VOUS FAITES VOTRE DEMANDE ?

28. ENUMEREZ LES PAYS, AUTRES QUE CELUI DANS LEQUEL VOUS FAITES VOTRE DEMANDE, DANS LESQUELS VOUS AVEZ YECU, PENDANT PLUS D'UN AN AU COURS DES CINQ DERNIERES ANNEES ET LES DATES APPROXIMATIVES DE CES RESIDENCES

Pays

Dates Approximatives

29. A QUELLE ADRESSE DESIREZ-VOUS QUE VOTRE VISA ET VOTRE PASSEPORT SOIENT ENVOYES ?

27 rue des Luperon, Marseille

30. AVIS IMPORTANT: La législation des Etats-Unis interdit la délivrance d'un visa de visiteur à toute personne qui a l'intention de s'établir dans le pays d'une façon permanente ou pour une période illimitée. Toute personne admise aux Etats-Unis avec un visa temporaire ne peut que s'y livrer aux activités pour lesquelles ce visa a été délivré. Un visiteur ne peut travailler. La législation des Etats-Unis interdit la délivrance de tout visa à toute personne atteinte d'une maladie contagieuse dangereuse, telle que la tuberculose, qui a souffert d'une maladie mentale sévère, qui est toxicomane ou se livre au trafic des stupéfiants; qui a des antécédents judiciaires; compris tout délit envers la morale publique, ou qui est ou a été membre du parti communiste ou de toute organisation affiliée, à moins que ces motifs d'exclusion n'aient fait préalablement l'objet d'une dispense spéciale. Au cas où l'une des restrictions énumérées ci-dessus s'appliquerait à vous, il est recommandé que vous vous présentiez dans nos bureaux pour une entrevue personnelle. Si cela n'est pas possible dès maintenant, une correspondance détaillant les faits vous concernant devrait être jointe à votre demande et nous être adressée. Dans certains cas, il est possible d'obtenir une dispense des restrictions prévues. Des renseignements sur ce point, et sur toute autre question en matière de visas, peuvent être obtenus en téléphonant, en vous présentant, ou en écrivant à nos services.

31. AVEZ-VOUS LU ET COMPRENEZ-VOUS BIEN LES INDICATIONS DONNEES AU PARAGRAPHE 30 DE CETTE FORMULE ?



Oui



Non

32. L'UNE QUELCONQUE DES RESTRICTIONS ENUMEREES AU PARAGRAPHE 30 S'APPLIQUE-T-ELLE A VOUS ?



Oui



Non

LE CAS ECHEANT, DONNEZ TOUS DETAILS SUR UNE FEUILLE JOINTE

33. Un visa accordé à toute personne ayant, en pleine connaissance de cause, donné de faux renseignements dans sa demande de visa est susceptible d'être annulé soit avant soit après l'arrivée aux Etats-Unis. Toute personne ayant fourni de tels faux renseignements est inapte à l'avenir à recevoir un visa.

34. Je certifie que les réponses que j'ai données sur cette formule sont exactes pour autant que je sache. De plus, je reconnais que la possession d'un visa n'assure pas au titulaire l'entrée aux Etats-Unis et, lors de son arrivée au port d'entrée, il est établi que le titulaire ne peut être admis.

8 septembre 1969

Date

Ernest Marché

Signature

(N'ECRIVEZ PAS DANS CET ESPACE RESERVE AU SERVICE)

EXHIBIT H

See Exhibit "A" attached to complaint, supra. pp. 13-21.

EXHIBIT I

FAMILY NAME		GIVEN NAME		MIDDLE NAME	TRAVEL DOCUMENT
HOME ADDRESS					
PLACE AND DATE OF BIRTH					
HAIR	EYES	HEIGHT	WEIGHT	NATIONALITY	MARKS
MARITAL STATUS	SEX	RACE	LENGTH AND PURPOSE OF STAY IN U. S.		
<input type="checkbox"/> M <input type="checkbox"/> S	<input type="checkbox"/> M	ETHNIC CLASS	Reporting - one month		
<input type="checkbox"/> W <input type="checkbox"/> D	<input type="checkbox"/> F				

I understand that possession of a visa does not entitle the bearer to enter the U.S. if upon arrival at a port of entry he is found inadmissible. I declare that the information contained in this application, including any statements made a part thereof, has been examined by me and is true and complete to the best of my knowledge and belief.

Signature of Applicant: Gordon Cornell

Applicant interviewed by me and application signed before me on: March 1, 1960

At: Brussels, Belgium

FORM 3-61 75-257 Gordon Cornell Gordon Cornell

GPO : 1967 : O-359972 FORM APPROVED. BUDGET BUREAU NO. 47-437-10


CLASSIFICATION	POST SERIAL NO.	REMARKS
1	212-2160	212(d)(3)(A)(28)
ISSUED ON	FOR	
VALID THROUGH	REFUSED ON	
SERVICE NO.		
TARIFF ITEM NO.		
FEE PAID: U. S. \$		
LOCAL CY. EQUIVALENT		
APPLICATION FOR NONIMMIGRANT VISA AND ALIEN REGISTRATION		

EXHIBIT J

DEPARTMENT OF STATE,
BUREAU OF SECURITY AND CONSULAR AFFAIRS,
Washington, November 6, 1969.

Mr. LEONARD B. BOUDIN,
*Attorney at Law,
30 East 42d Street,
New York, N.Y. 10017.*

DEAR MR. BOUDIN: Your letter of October 24 addressed to the Under Secretary has been referred to me for reply in view of his absence from the country. You request that the Under Secretary meet with a group of academicians to discuss the case of Ernest Mandel who was refused a visa by our Embassy at Brussels in September. Mr. Mandel has recently applied for a visa to visit the U.S. to participate in several scholarly conferences and to fulfill a number of speaking engagements.

Under the Immigration and Nationality Act of 1952, Mr. Mandel is ineligible for a visa or for admission to the U.S. because of his affiliation with certain organizations. In 1962 and again in 1968, waivers of ineligibility were sought and obtained from the Attorney General and visas were issued to Mr. Mandel to enable him to come to the United States to write articles for a Belgian publication and to fulfill speaking engagements. As is usual in such cases, the waivers were granted on the condition that Mr. Mandel conform to his stated itinerary and limit his activities to the stated purposes of his trip. On his 1968 visit, Mr. Mandel engaged in activities beyond the stated purposes of his trip. For this reason, a waiver of ineligibility was not sought in connection with his September visa application.

However, we have now learned that in 1962 and 1968 Mr. Mandel was apparently not informed that a visa was issued only after obtaining a waiver of ineligibility and therefore may not have been aware of the conditions and limitations attached to the visa issuance. In view of this and his assurances, given in connection with his current application, that he will conform to his stated itinerary and purposes, we are reconsidering his case and are discussing it with the Department of Justice. As you know, authority to grant waivers of ineligibility in such cases rests solely with the Attorney General.

[See p. 48 for conclusion of letter]

EXHIBIT K

Ppt or () Tit No. 1185/67Expires 1/1/70 19 70LOB LOC OAC

Chk From Rqtd By Rcd

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B-1 B-2 B-1 B-2

Interviewed by 1/1/70Issued by 1/1/70Issued on 1/1/70For Multiple or 1/1/70 Appls.During 48 mos. or 1/1/70 mos.

(N'ECRIVEZ PAS DANS L'ESPACE CI-DESSUS RESERVE AU SERVICE)

1. NOM DE FAMILLE		PRENOM USUEL		AUTRES PRENOMS	
<u>M. M. M.</u>		<u>M. M. M.</u>		<u>M. M. M.</u>	
2. AUTRE(S) NOM(S) (Y COMPRIS LE NOM DE JEUNE FILLE, PSEUDONYME, ETC.)				3. NATIONALITE	
<u>M. M. M.</u>				<u>M. M. M.</u>	
4. LIEU DE NAISSANCE (Ville, Département, Pays)				5. DATE DE NAISSANCE (Jour, Mois, Année)	
<u>M. M. M.</u>				<u>M. M. M.</u>	
6. DOMICILE				7. TELEPHONE	
<u>M. M. M.</u>				<u>M. M. M.</u>	
8. ADRESSE COMMERCIALE				9. TELEPHONE	
<u>M. M. M.</u>				<u>M. M. M.</u>	
10. PROFESSION				11. SEXE	
<u>M. M. M.</u>				<u>M. M. M.</u>	
12. CHEVEUX (Couleur)	13. YEUX (Couleur)	14. TAILLE	15. TEINT (Clair, Coloré, etc.)		
<u>M. M. M.</u>	<u>M. M. M.</u>	<u>M. M. M.</u>	<u>M. M. M.</u>		
16. SIGNES PARTICULIERS (Cicatrices visibles, etc.)					
<u>M. M. M.</u>					
17. SITUATION DE FAMILLE					
<input type="checkbox"/> Marié(e) <input type="checkbox"/> Célibataire <input type="checkbox"/> Veuf(ve) <input type="checkbox"/> Divorcé(e)					
18. BUT DU VOYAGE AUX ETATS-UNIS (Tourisme, affaires, visite à la famille ou à des amis, etc.)					
<u>M. M. M.</u>					
19. DUREE DU SEJOUR ENVISAGE AUX ETATS-UNIS			20. DATE APPROXIMATIVE DU DEPART POUR LES ETATS-UNIS		
<u>M. M. M.</u>			<u>M. M. M.</u>		
21. QUI COUVRIRA VOS FRAIS DE TRANSPORT ET DE SEJOUR ? (Vous-même, votre société, votre frère ou sœur, etc.)					
<u>M. M. M.</u>					
22. VOTRE CONJOINT SE TROUVE-T-IL AUX ETATS-UNIS ?			23. VOTRE PERE OU VOTRE MERE EST-IL (ELLE) AUX ETATS-UNIS ?		
<input type="checkbox"/> Oui <input type="checkbox"/> Non			<input type="checkbox"/> Oui <input type="checkbox"/> Non		

24. INDIQUEZ OÙ ET APPROXIMATIVEMENT QUAND VOUS AVEZ DEMANDÉ POUR LA DERNIÈRE FOIS UN VISA POUR LES ÉTATS-UNIS

25. PRÉCISEZ

☐ Visa accordé

☐ Visa refusé

☐ Demande abandonnée

26. N'AVEZ-VOUS JAMAIS DEMANDÉ UN VISA D'IMMIGRATION POUR LES ÉTATS-UNIS

☐ Oui

☐ Non

27. DEPUIS COMBIEN DE TEMPS VIVEZ-VOUS DANS LE PAYS OÙ VOUS FAITES VOTRE DEMANDE

28. ÉNUMÉREZ LES PAYS, AUTRES QUE CELUI DANS LEQUEL VOUS FAITES VOTRE DEMANDE, DANS LESQUELS VOUS AVEZ VÉCU PENDANT PLUS D'UN AN AU COURS DES CINQ DERNIÈRES ANNÉES ET LES DATES APPROXIMATIVES DE CES RÉSIDENCES

Pays

Dates Approximatives

29. À QUELLE ADRESSE DESIREZ-VOUS QUE VOTRE VISA ET VOTRE PASSEPORT SOIENT ENVOYÉS

30. AVIS IMPORTANT: La législation des États-Unis interdit la délivrance d'un visa de visiteur à toute personne qui a l'intention de s'établir dans le pays d'une façon permanente ou pour une période illimitée. Toute personne admise aux États-Unis avec un visa temporaire ne peut que s'occuper des activités pour lesquelles ce visa a été délivré. Un visiteur ne peut travailler. La législation des États-Unis interdit la délivrance de tout visa à toute personne atteinte d'une maladie contagieuse dangereuse, telle que la tuberculose; qui a souffert d'une maladie mentale sérieuse; qui est toxicomane ou se livre au trafic des stupéfiants; qui a des antécédents judiciaires; compris tout délit envers le moral public, ou qui est ou a été membre du parti communiste ou d'une autre organisation affiliée, à moins que ces motifs d'exclusion n'aient fait préalablement l'objet d'une dispense spéciale. Au cas où l'une des restrictions énumérées ci-dessus s'appliquerait à vous, il est suggéré que vous vous présentiez dans nos bureaux pour une entrevue personnelle. Si cela n'est pas possible dès maintenant, une déclaration détaillant les faits vous concernant devrait être jointe à votre demande et nous être adressée. Dans certains cas, il est possible d'obtenir une dispense des restrictions prévues. Des renseignements sur ce point, et sur tous les autres questions en matière de visas, peuvent être obtenus en téléphonant, en vous présentant, ou en écrivant à nos services.

31. AVEZ-VOUS LU ET COMPRENEZ-VOUS BIEN LES INDICATIONS DONNÉES AU PARAGRAPHE 30 DE CETTE FORMULE ?

☒ Oui

☐ Non

32. L'UNE QUELCONQUE DES RESTRICTIONS ÉNUMÉRÉES AU PARAGRAPHE 30 S'APPLIQUE-T-ELLE À VOUS ?

☐ Oui

☒ Non

LE CAS ÉCHEANT, DONNEZ TOUTS DÉTAILS SUR UNE FEUILLE JOINTE

33. Un visa accordé à toute personne, ayant, en pleine connaissance de cause, donné de faux renseignements dans sa demande de visa est susceptible d'être annulé soit avant soit après l'arrivée aux États-Unis. Toute personne ayant fourni de tels faux renseignements est inapte à l'avenir à recevoir un visa.

34. Je certifie que les réponses que j'ai données sur cette formule sont exactes pour autant que je sache. De plus, je reconnais que la possession d'un visa n'assure pas au titulaire l'entrée aux États-Unis et, lors de son arrivée, qu'il est établi que le titulaire ne peut être admis.

23 Feb 1968

Date

Signature

(N'ÉCRIVEZ PAS DANS CET ESPACE RÉSERVÉ AU SERVICE)

EXHIBIT L

ERNEST MANDEL

127, rue des Diables
BRUXELLES 3
TEL. 16.86.43

BRUXELLES, le 23 octobre 1969.

Au Conseil des "Liaisons d'Amérique à Bruxelles".

Madame,

Voici la liste probable des conférences que je donnerai pendant
le voyage prévu aux Etats-Unis:

- 25 novembre: Université de Princeton, Département de Philosophie,
"Précursus in Political Philosophy".
- 27 novembre: Université de Princeton, Département de Philosophie,
"Faculty Seminar on European Studies".
- 28 et 29 novembre: Conférence organisée conjointement par la Social-
ist Scholars Conference et la Bertrand Russell Peace
Foundation sur les sujets "Agencies for Revolutionary
Change".
- 30 novembre: Amherst College.
- 3, 4 et 5 décembre: Massachusetts Institute of Technology, Sciences
Recherche Action Co-ordinating Committee.
- Le soir du 4 décembre retour à New York pour une conférence à la
Graduate Faculty, New School for Social Research, New York.

Une invitation pour l'Université de Columbia a été annoncée mais pas
encore reçue; elle se situerait au 1 ou 2 ou 5 décembre.

Pour le moment, je ne peux pas être plus précis, comme certains des

autres, mais j'ai pu changer des conférences d'initiative par

moi-même et, en condition pour l'obtention du visa, j'ai

fait passer, au moment du départ, la liste définitive de mes

visites.

2° Je ne puis écarter de l'itinéraire indiqué, même si les Universités
le permettent;

3° Je ne puis, à l'aparté et à l'exception d'un public à quelques occasions, en dehors de celle des conférences qui vous auront été annoncées.

Personnellement, je crois de tels engagements déplorables et con-
traire aux principes de liberté de l'Université. Mais, en ce qui a fait
entendre indirectement - manifestement - j'en ai reçu aucune communi-
cation - que le refus du visa pour le 27 octobre 1969 à Stanford était
du au fait que je n'avais pas respecté de tels engagements lors de
mon voyage précédent aux Etats-Unis (engagements qu'on ne m'avait ja-
mais demandés), je suis prêt à prendre les engagements indiqués plus
haut comme un pis-aller inévitable.

Salutations distinguées,

Ernest Mandel

ERNEST MANDEL
127, rue des Diables
BRUXELLES 3
TEL. 16.86.43

BRUXELLES, le 24 octobre 1969.

Au Conseil des "Liaisons d'Amérique à Bruxelles".

Madame,

Tout d'abord à l'adresse indiquée dans ma note du 23
octobre, en vue d'obtenir un visa pour les Etats-Unis en novembre-dé-
cembre, il y a quelques modifications:

- 1.- J'ai reçu une invitation pour Vassar, que j'ai accepté pour le 2
5 et 6 décembre.
- 2.- Je ne serai à MIT que le 4 décembre.
- 3.- La conférence à Amherst a été déplacée du 30 novembre (un dimanche)
vers le 1^{er} décembre.

Sincèrement vôtre,

Ernest Mandel

ERNEST MANDEL
127, RUE JOSEPHINE
BRUXELLES 3
TEL. 1995 43

BRUXELLES, le 30 octobre 1969.

Mme Feder,
Conseil des Etats-Unis,
à Bruxelles.

Madame,

Pour appuyer mon demande d'un visa d'entrée aux Etats-Unis en vue de tenir les conférences universitaires auxquelles j'ai été invité fin novembre-début décembre, je désire porter à votre connaissance que je m'engage à ne pas faire des collectes à aucune fin, et à ne pas être présent à des meetings ou de telles collectes se tiennent, pendant mon séjour aux Etats-Unis.

Je profite de l'occasion pour vous signaler que lors de ma dernière visite aux Etats-Unis, je n'ai pas non plus fait de telles collectes. Il est exact que j'ai pris la parole à une réunion privée, où eut lieu une vente-aux-enchères d'affiches françaises, au profit des étudiants français en prison à cette époque, mais je n'ai pas participé moi-même, de quelque manière que ce soit, à cette vente. Si c'est une cause de refus de mon visa, je m'engage à ne pas être présent à de telles réunions lors de mon prochain voyage aux Etats-Unis.

Je vous prie de bien vouloir communiquer cela au State Depart-

Ernest Mandel

ment. Dans la lettre précédente dans laquelle je m'engageais à ne pas faire de telles collectes, j'avais écrit : "à aucune fin".

Croyez, Madame, à mes sentiments distingués.

BRUXELLES, le 30 octobre 1969.

Très respectueusement,

Ernest Mandel

Je vous prie de bien vouloir communiquer cela au State Depart-

Ernest Mandel

Très respectueusement,

[This is conclusion of letter appearing on p. 43]
 We are well aware of the interest and concern of the academic community in this matter. And in view of the present status of the case we do not believe a meeting such as you suggest is necessary. I will be happy to inform you promptly of the final decision in the case.

Sincerely,

(S) Barbara M. Watson
 BARBARA M. WATSON.

EXHIBIT M

DEPARTMENT OF STATE,
 Washington, D.C. 20520.

BERTRAND RUSSELL PEACE FOUNDATION,
 156 Fifth Avenue, Suite 1003,
 New York, N.Y. 10010.

JANUARY 27, 1970.

DEAR GENTLEMEN: I refer to your interest in the visa application of Ernest Mandel.

Under the Immigration and Nationality Act of 1952, Mr. Mandel is ineligible for a visa or for admission to the United States because of his affiliation with certain organizations. In 1962 and again in 1968, waivers of ineligibility were sought and obtained from the Attorney General and visas were issued to Mr. Mandel to enable him to come to the United States to write articles for a Belgian publication and to fulfill speaking engagements. As is usual in such cases, the waivers were granted on the condition that Mr. Mandel conform to his stated itinerary and limit his activities to the stated purposes of his trip. On his 1968 visit, Mr. Mandel engaged in activities beyond the stated purposes of his trip. For this reason, a waiver of ineligibility was not sought in connection with his September 1969 visa application.

However, we learned subsequently that in 1962 and 1968 Mr. Mandel was apparently not informed that a visa was issued only after obtaining a waiver of ineligibility and therefore may not have been aware of the conditions and limitations attached to the visa issuance. In view of this and in the interest of free expression of opinion and exchange of ideas, we recommended

a waiver for Mr. Mandel. The Immigration and Naturalization Service (acting for the Attorney General) responded that a waiver was not warranted.

Sincerely yours,

(S) M. J. Ortwein
M. J. ORTWEIN,
Chief, Domestic Services Division,
Visa Office.

EXHIBIT N

EMBASSY OF THE UNITED STATES OF AMERICA,
CONSULAR SECTION,
avenue des Arts 36,
1040 Bruxelles, le 1r. décembre 1969.

Monsieur ERNEST E. MANDEL,
rue Jos. Impens 127,
1030 Bruxelles.

MONSIEUR: Je me réfère à votre demande de visa pour les Etats-Unis et à la demande d'obtenir une dérogation en vertu du par. 212(d)(3)(a) aux causes d'inéligibilité d'admission trouvées dans votre cas.

Confirmant le message téléphonique qui vous a été remis samedi le 29 novembre dernier par Monsieur Elmendorf, je dois vous informer que la demande de dérogation a été refusée par les autorités à Washington D.C. Je regrette que cet avis ne vous ait pas été communiqué plus tôt, l'Ambassade n'ayant pas été avisée de ce refus avant samedi matin.

Veuillez agréer, Monsieur, l'assurance de ma considération distinguée.

(S) Alta Fowler
ALTA FOWLER,
Consul des Etats-Unis,
d'Amérique.

EXHIBIT O

...The speech Nixon &

Mitchell tried to ban

ERNEST

MANDEL

Revolutionary
Strategy
in the

Imperialist
Countries

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A MERIT PAMPHLET

INTRODUCTION

By George Novack

The speech printed in this pamphlet has a dramatic history. It was prepared by the noted Belgian Marxist scholar, Ernest Mandel, for delivery at an all-day conference held November 29, 1969, at Town Hall, New York City. The theme of the occasion, held under the auspices of the Bertrand Russell Peace Foundation and the Socialist Scholars Conference, was AGENCIES OF SOCIAL CHANGE; TOWARDS A REVOLUTIONARY STRATEGY FOR ADVANCED INDUSTRIAL COUNTRIES. The other participants included André Gorz of the French monthly *les Temps Modernes*, Professor James O'Connor of San Jose (California) State College; Art Fox of UAW Local 600 in Detroit; Paul Sweezy, co-editor of *Monthly Review*; Stanley Aronowitz, columnist for *The Guardian*; and Steve Zeluck, president of the New Rochelle, N.Y. Federation of Teachers.

Ernest Mandel could not give the speech in person as originally planned. The audience of 1,200 heard it through a tape recording. A trans-Atlantic telephone hookup had been planned so that Mandel could participate in the discussion, but the circuit failed.

He was prevented from visiting this country by a ruling of Nixon's Attorney General, John N. Mitchell, who refused to issue a waiver under the McCarran-Walter Act.

Here is the story behind this denial, which created a policy split in the highest circles of the Nixon administration and stirred a storm of controversy in the national and international press.

Mandel had been admitted to the United States in 1962 and 1968. The second time he spoke at thirty colleges and universities from coast to coast.

Nonetheless, the government refused to permit him to enter the country when he applied for a four-day visa to debate Harvard Professor John Kenneth Galbraith at Stanford University, October 18. In his keynote address to that conference Professor Galbraith declared: "It seems to me that the failure to give Ernest Mandel a visa is silly, stupid, irrational and also grievously bad politics. It angers everyone involved. It angers the Belgians. It angers the Americans and so far as I can see doesn't please anybody." He called upon the audience to write the State Department condemning "this stupid action."

In the following weeks the volume of protests mounted on a national scale. The *New York Times* editors declared on Oct. 28 that "the idiotic decision to bar Dr. Mandel must be reversed." Two Nobel Laureates, Salvador E. Luria of M.I.T. and George Wald of Harvard; a group of prominent intellectuals including Susan Sontag, Noam Chomsky, Professor Arno Mayer of Princeton, and Richard Poirier, an editor of *Partisan Review*; the Presidents of Stanford, Princeton and ~~W~~assau; and faculty members of more than fifty universities condemned the administration's ban on Mandel as a violation of academic freedom and a reversion to McCarthyism.

This campaign had its effect in Washington. Secretary of State William Rogers and Undersecretary Elliott L. Richardson ordered a reconsideration of the case, and then recommended that Mandel be given a visa. But he didn't get it.

The 1952 McCarran-Walter Act technically excludes certain categories of foreigners who belong to "proscribed organizations" on a secret list compiled by the Justice Department. Only the Attorney General has the statutory authority to grant exemptions from this ban. This was accorded Mandel under the Kennedy and Johnson administrations, which had largely permitted the exclusion part of the act to lapse.

Attorney General Mitchell, Nixon's campaign manager in 1968 and chief political adviser today, is of a different mind. He and Vice-President Agnew have initiated a campaign of intimidation designed to curb dissent and consolidate the Republican constituency in the Southern states and "Middle America." His decision to bar Mandel, an internationally known Trotsky-

ist, coincides with this course. When Mandel toured the United States in 1968, his revolutionary positions were assailed by such right-wing voices as Barron's *Business and Financial Weekly*, the conservative columnist William Buckley, and the Hearst press, whose editor-in-chief, William Randolph Hearst, Jr., wrote front-page editorials on Mandel. Mitchell and his entourage incline in the same reactionary direction.

This deliberate revival of the closed-door provisions of the McCarran Act has been interpreted as a reversion to McCarthyism by the *N.Y. Times*, the *N.Y. Post*, *Time*, *Newsweek*, the *Communist Daily World*, the *London Guardian* and numerous other commentators.

Under the title, "McCarranism Revisited," the Nov. 27 *N.Y. Times* stated: "The denial of the waiver that was necessary for issuance of a visa by the State Department assumes added significance because Secretary Rogers himself is known to have recommended approval of Dr. Mandel's visa. While the battle of the visa began at low levels of routine bureaucratic hurdles, it has culminated in a contest of conflicting authority and ideology at the highest stratum of the Administration. The plain fact is that the Justice Department, on Attorney General Mitchell's orders, overruled a request which the State Department considered in the national interest."

So far the Attorney General has rejected all appeals to change his stand. The Washington authorities subsequently hardened their attitude by preventing Tariq Ali, editor of *The Black Dwarf*, who is a leader of the British antiwar movement and also a well-known Trotskyist, from speaking at a convention of the Arab-American University Graduates and a Young Socialist Educational Conference at Detroit in early December.

The National Emergency Civil Liberties Committee, and its chief counsel, Leonard Boudin, who won a reversal in the Dr. Spock conspiracy case and a court appeal which assured Julian Bond his seat in the Georgia legislature, are studying legal steps to challenge the constitutionality of the provisions of the McCarran-Walter Act under which Ernest Mandel has been excluded.

Indeed, the Mandel case is far from closed.

Meanwhile Merit Publishers is issuing this pamphlet so that Americans may read what a man who is probably the most influential and authoritative exponent of Marxist ideas in the West today had to say, even though the President and Attorney

General barred the door against him. Mandel is best known for his two-volume work *Marrist Economic Theory*, which has been translated into many languages from German to Arabic. Among writings of his made available by Merit Publishers are the pamphlets *An Introduction to Marxist Economic Theory*, widely used in college courses, and the recently printed *The Marxist Theory of the State*.

Mandel's conception of revolutionary strategy for the advanced industrial countries stood out in sharp contrast with the more or less libertarian, semi-anarchist and purely spontaneist positions presented by several of the other participants in the Town Hall conference. As an orthodox Marxist of the Trotskyist school, he stressed the necessity of building revolutionary parties linked in an international organization in order to prepare the working class for the conquest of power and assure the triumph of the struggle for socialism.

According to *Newsweek* of Dec. 8, Secretary of State Rogers is said to have fumed to an aide, "Why should we be afraid of this man and his ideas?" Why, indeed? Read this speech and other of Mandel's writings. Attorney General Mitchell's fear of Mandel's revolutionary ideas may then become understandable, even though his action cannot be justified or condoned but must be fought.

DECEMBER 5, 1969.

REVOLUTIONARY STRATEGY IN THE IMPERIALIST COUNTRIES

By Ernest Mandel

Let me first say something about my exclusion. It demonstrates a lack of confidence on the part of the Nixon administration in the capacity of its supporters to combat Marxism on the battleground of ideas. I would not be carrying any high explosives, if I had come, but only, as I did before, my revolutionary views which are well known to the public.

Why should the Washington authorities be so afraid of my presenting them when many Marxist books are freely sold in the United States, including my own? In the nineteenth century the British ruling class, which was sure of itself, permitted Karl Marx to live as an exile in England for almost forty years. Times have certainly changed when the most powerful of

capitalist governments today refuses a brief visit to an exponent of his doctrines!

On the other hand the press outcry and the protests over this action show that public opinion in the United States is very much alert to the dangers that threaten our basic freedoms.

A revolutionary strategy is possible only in a revolutionary epoch: this is a basic tenet of Marxism. A social revolution cannot be achieved until objective historical conditions have placed that revolution on the agenda. A social revolution cannot result simply from the desires, dreams, ideals of revolutionary-minded individuals. Its consummation requires a level of socio-economic contradictions which makes the overthrow of the ruling class objectively possible. And it needs the presence of another social class which, as a result of its place in the process of production, its weight in society, and its political potential, can successfully achieve this overthrow.

A revolutionary strategy in the advanced industrial countries today only makes sense, from a Marxist point of view, if one affirmatively answers these two questions: Is there a historical structural crisis of the world capitalist system? Does the working class have a revolutionary potential?

All those who consider that world capitalism has been a system in full expansion for twenty-five years or longer and remains so, that, in other words, the historical epoch of ascending capitalism is not yet over, cannot reasonably project a revolutionary strategy as a short- or medium-range perspective. They can, in the best of cases, maintain a principled opposition to the capitalist system on grounds similar to that of Western social-democracy in its best period prior to World War I through a combination of the struggle for immediate reforms with general socialist propaganda. That's what the few reformists who call themselves Marxist in Europe—in the USA they seem to have disappeared—actually do.

There are also those who claim to be Marxists but assume that capitalism has gone through a period of tremendous worldwide expansion—Russia being capitalist, China being capitalist, and capitalism solving in one country after another the problem of socio-economic underdevelopment. They, too, can remain consistent with their theoretical assumptions only by acting like reformists, i.e., by excluding any need for a revolutionary strategy as an immediate perspective in the West.

Revolutionary Marxists, on the other hand, have to prove that they are living in a historical epoch of crisis and disintegration of the world capitalist system, if they want to keep their search for a revolutionary strategy on the foundations of historical materialism. Evidence in that field is rather overwhelming. After all, nobody really believes that Presidents Johnson and Nixon have sent over a half a million soldiers to Vietnam to prevent Ho Chi Minh from spreading capitalism to South Vietnam. What they want to stop is not capitalist competition by their competitors—who could seriously argue that the main economic competition which U.S. imperialism meets today on a world scale comes from North Vietnam or China, or even the Soviet Union at that!—but a challenge by an opposing social system, a challenge from anti-imperialist and anti-capitalist forces on a world scale. This challenge, which has existed ever since the October Revolution, is bigger today than it ever was, having spread to all six continents. Nothing of the kind existed in that epoch of expanding and triumphant capitalism which lasted through the nineteenth century up to World War I.

It is sometimes alleged that the growth of the productive forces in Western imperialist countries since World War II—which is undeniable—disproves the existence of a historical crisis of decline and decomposition of world capitalism. This argument is not very convincing. It reflects a mechanistic conception of how a certain mode of production, how a certain set of relations of production, become fetters on a further development of the productive forces. A historical analogy will immediately clarify the point. Could one really argue that there was an absolute decline of the productive forces, say, in France during the fifty or twenty years prior to the Great French Revolution of 1789? Or, to take an even more striking example: Was the Russian Revolution of 1917 preceded by twenty years of stagnation and decline, or rather by twenty years of stormy expansion of the productive forces?

In his famous Preface to *A Contribution to a Critique of Political Economy*, written in January 1859, Marx specifies the necessary and sufficient preconditions for a historical epoch of social revolution in the most concise way possible: "At a certain stage of their development, the material forces of production in society come in conflict with the existing relations of production, or—what is but a legal expression for the same

thing—with the property relations within which they have been at work before. From forms of development of the forces of production, these relations turn into their fetters. Then begins an epoch of social revolution.”

The keystone of Marx's materialist theory of social revolution is therefore the concept of the *contradiction* between production and property relations on the one hand and the productive forces on the other hand. In today's world this conflict expresses itself in three ways. First, by the inability of world capitalism to solve any basic economic problems of the masses within the framework of the imperialist system. This is most graphically demonstrated by its inability to eliminate centuries-old backwardness in the so-called third-world countries. Second, by the growing inability of the system to contain the growth of productive forces—especially of the science-oriented third industrial revolution—within the framework of private property and the nation-state. Third, by a periodic large-scale revolt of masses of industrial and intellectual workers, as well as of youth in general, against the persistence of these capitalist relations of production, which mutilate their needs, their lives and their capacity for self-realization, and totally thwart the tremendous potential of human freedom and human self-realization opened up by contemporary industry, technology, and science.

Marx's famous prediction of a hundred years ago, that the productive forces would transform themselves more and more into destructive forces if they were not in time liberated from the fetters of private property and profit orientation, hits the nail squarely on the head. This does not imply an absolute decline in production but a much more frightful form of decay: a qualitative transformation of the results of increased output which threatens to destroy the last remnants of freedom of choice for the individual, the material biosphere of mankind, if not the very existence of the human race. The output of an ever-increasing mass of increasingly meaningless commodities of increasingly doubtful quality; the pollution of the atmosphere, land and water; and the threat of nuclear and biological warfare resulting from the growth of tremendous permanent war expenditures all testify to the realism of Marx's prediction.

If we approach the problem in this way, we will likewise have a key to judge the revolutionary potential of the working class. This is not primarily a question of gauging what workers

think—going around with an electronic counter, measuring the number of workers reading capitalist or reformist newspapers and those reading revolutionary ones; comparing the affiliations to trade unions led by labor lieutenants of capitalism or to reformist working-class parties with those of the number of working-class members and sympathizers of revolutionary organizations, and then reaching the obvious conclusion that the overwhelming majority of the Western working class is not yet under the political influence or leadership of revolutionists. This is essentially a problem of analyzing the workers' force in reality and what they *do*, of ascertaining what the objective significance of their actions is.

In order to prove that the working class has lost its revolutionary potential, it would be necessary to prove that all the periodic explosions of working-class discontent—whose reality nobody can deny—are centered exclusively around problems of higher wages and shorter working hours, to enable them to have more time to consume capitalist commodities and enjoy the services of the capitalist leisure industries. But this image does not correspond to the reality of Western European workers' discontent; it does not correspond to the reality of the discontent of Japanese and Australian workers; it does not correspond to the reality of discontent in such an industrialized country of Latin America as Argentina; nor will it correspond to the future explosions of discontent in the United States since the politically advanced countries simply show the politically more backward one the image of its own future.

Any analysis of the May 1968 revolutionary upsurge in France cannot but arrive at the conclusion that its main thrust, on behalf of the working class, went far beyond questions of higher wages and shorter working hours. And since May 1968, we have had an uninterrupted series of examples reflecting this main thrust in all the main industrial countries of Western Europe: Italy, Britain, and even that supposed bulwark of conservatism and social conformism, Western Germany.

When workers challenge the basic organization of labor at plant level as they have done in many Italian factories (in one case, that of the Candy washing machine plant, even raising the problem of eliminating the basic division of labor between manual workers and white-collar employees by a job-rotation system); when they challenge the employers' right to lay off workers, close factories, or transfer equipment to other factories,

as they are starting to do in Britain; when they raise at plant level the slogan of "Open the Books" in response to employers' refusal to grant demands, as they did during several recent wild-cat strikes in Western Germany; when they seize and occupy a factory in answer to an employer's lockout, as they recently did at the Le Mans Renault plant in France, they thereby express their instinctive urge to raise the level of class struggle and of class confrontation from the elementary union level of the redistribution of income between profits and wages to the highest level prior to the struggle for power. This is the level of challenging Capital's right to dispose as it wills of workers and machines.

Such is the basic trend of the new working-class initiatives in Western Europe today. It is a clear challenge to the continuance of capitalist relations of production. This provides a striking illustration of the revolutionary potential of the working class. And this is why a revolutionary strategy in the Marxist sense of the word is both possible and indispensable, if the new upsurge of working class militancy which is now in full swing in Europe is not to end in defeat as it did in the previous three main periods of upsurge: that at the end of World War I; that during the mid-thirties; and that at the end of World War II.

To state that an analysis of the working class as an agency of social change should start from how the workers act and not from what they think does not at all imply that the question of their thinking—of their level of consciousness—is irrelevant to the processes of social change in the West. On the contrary: it is a basic thesis of Marxism that a socialist revolution, at least in an advanced industrial country, needs a high level of consciousness of the working class to be successful.

Socialism is the first social system in the history of mankind to be introduced by the conscious action of its collective creators and not, so to speak, behind the backs of the actors in history's drama. But once we understand that, in the last analysis, it is not consciousness which determines social existence, but social existence which determines social consciousness, it is in the realm of the conditions of production, of contradictions between human needs and capitalist relations of production, and of the inner contradictions of that capitalist mode of production itself that we have to discover the reasons for the dialectical development of working-class consciousness in its successive phases.

Under normal conditions, the ruling ideology of society and the ruling pattern of behavior of worker cannot but be determined by the ideology, the values and patterns created and promoted by the ruling class. Then, under conditions of growing social crisis, a growing part of that same working class cannot but liberate itself progressively from that same ideology and pattern of behavior inspired by the ruling class.

Marcuse's main mistake is the assumption that, because the capitalist class can undoubtedly largely shape the consumer behavior and ideas of a majority of workers, it can thereby erase the acute awareness of alienation in the field of production. Alienation of the consumer and of the citizen is allegedly an efficient and sufficient means to suppress awareness of being alienated as producer. But this flies in the face of historical experience, of theoretical analysis, and simple common sense. After all, what a man does during his work; the frustrations he undergoes eight to ten hours a day—when one also counts the time spent going to and from the place of work—cannot but periodically influence his behavior at least as much, and very likely more than, the manipulated "satisfactions" he can "enjoy" four hours a day and during weekends.

It is true that a whole series of conjunctural factors is required to bring this reflection of the structural ills of capitalism to the threshold of the workers' consciousness. Conjunctural shifts in the trends of income and employment (a slight decrease of real wages after a long period of increases; a sudden increase in unemployment after a long period of full employment; a sudden threat of technological unemployment and mass layoffs in some key sector of industry, etc.); a crisis of leadership in the ruling class; a deep-going political crisis as a result of foreign imperialist adventures; a sudden upsurge of militancy and anti-capitalist activity in "marginal" sectors of society, like the students or the teachers: all these factors and many others can create a favorable climate for a growing awareness by the workers of their alienation as producers, and for a sudden shift of the class struggle to questioning the employer's authority in the shops, factories, and offices themselves. We are unlikely ever to find two large countries where an identical combination of circumstances will produce the general result we have described.

It is also true that purely spontaneous struggles challenging Capital's right and power to command men and machines cannot go beyond a certain level. We are here confronted with one of the most complicated problems of Marxism and of sociology or contemporary history in general: the interaction between the spontaneous struggles of the workers, the rôle of the vanguard organizations, and the growth of working-class consciousness.

As a revolutionary Marxist, I do not believe that you can abolish an army or militarism by shortening guns millimeter by millimeter. Capitalism is a structure which can absorb and integrate many reforms (e.g., wage increases) and which automatically rejects all those reforms which run counter to the logic of the system (such as completely free public services which completely cover social needs). You can abolish the structure only by overthrowing it, not by reforming it out of existence.

But the understanding of the objectives of that revolutionary process, which can only take the form of social ownership of all the means of production and of conquering political power for the mass of the toiling people, must go hand in hand with an understanding of the dialectical unity between the struggle for reforms and the diffusion of revolutionary consciousness. Without the practical experience and partial victories acquired by the workers in their struggle for immediate demands—both economic and political ones—a rise of consciousness in the working class, a rise in its self-confidence, is impossible. And without such a rising self-confidence, the revolutionary insolence involved in challenging the rule of the most powerful, richest and best-armed ruling class which has ever existed on earth—the Western bourgeoisie—is just not imaginable.

The credibility of any plan for taking power, what Lenin called a revolutionary strategy, would in such cases be very low indeed in the eyes of broader masses. Gradual, molecular, nearly invisible processes of accumulating self-confidence, consciousness of the potential power of one's own class, are therefore of the utmost importance in preparing class explosions like May 1968 in France and the one which is now being prepared in Italy.

Objective contradictions in the system make periodic explosions of working-class discontent inevitable. But let me remind you of Lenin's statement that what distinguished a true revolutionist from a reformist was the fact that the former kept

on spreading revolutionary propaganda even though the period was not—or not yet—revolutionary or prerevolutionary. Multiple skirmishes, together with continuous socialist revolutionary propaganda, prepare the working class for entering these explosions with a growing awareness of the need to challenge the system as a whole, of the need for a general struggle, a general strike, a challenge against the political as well as the social and economic power of the ruling class.

But this awareness in turn is not in itself sufficient. It does not guide the working class to the next immediate step forward, once it has engaged in a general struggle. It does not answer the question: What do we do when we have occupied the factories? It is lack of consciousness of this decisive next step forward which again and again has stopped the working class in its tracks. This happened in the first years after World War I in Germany; in 1920 and 1948 in Italy; in 1936 and 1968 in France.

Two answers can be given to that question. The first one insists on the key rôle played by the building of a revolutionary party, which centralizes experience, consciousness, and assures its continuity. I shall come back to this question in a minute. It is obviously an essential part of the answer, but it is not the only one. Without a certain level of working-class consciousness and revolutionary self-activity, a revolutionary party cannot transform a struggle for immediate demands into a struggle challenging the very existence of the capitalist system. Even more so, without such a consciousness in at least part of the working class, such a revolutionary party cannot really become a mass party.

This is today the heart of the problem of revolutionary strategy in the Western industrialized countries. As I do not believe that capitalism will suddenly collapse as a result of its inner contradictions; as I do not believe that the main task of revolutionary socialists is just to sit on the sidelines and interpret current events, hopping for some miracle to bring about a revolution; as I firmly believe in the virtue of conscious intervention, in the key pedagogic rôle of struggle and experience drawn from struggle for the working class, my conclusion is the following: only by trying to expand actual living working-class struggles toward an incipient challenge against the authority of the employers, of the capitalist system, and of the bourgeois state inside the factories (and incidentally also in the neighborhoods, the living quarters of the working class) can a qualita-

tive rise in working-class consciousness be achieved. This gives struggles for workers' control today in imperialist countries key strategic importance.

Through such struggles, and only through such struggles, can the workers achieve the understanding that what the overthrow of capitalism is all about in the last analysis, is, to use Marx's famous formula, for the associated producers to take over the factories and the whole industrial system and run it for the common benefit of mankind, instead of having it run for accumulating profit and capital for a few giant financial groupings locked in deadly competition with each other. Through such struggles, and only through such struggles, can the workers build the actual organs through which they can, tomorrow, themselves take over the administration of the economy and the state: freely elected workers' committees at shop level, which will federate themselves afterwards locally, regionally, and internationally. That's what the conquest of power by the working class really means.

It is highly significant that one of the main demands born from the present upsurge in militancy of the Italian working class is the demand for free election of shop stewards at all levels of plant organization, including each conveyor belt, and the conception of these *delegati di reparto* as people who constantly challenge the chiefs, bosses, and foremen, the whole hierarchy which presses down on the worker in the capitalist plant. It is significant because in some giant factories, like the FIAT plant in Turin with 80,000 workers, the workers have already started to implement this demand even before they have conquered the "legal" right to do so. This is a historical step forward compared to the May 1968 revolt in France where, through an inability to set up organs of self-representation of this type, the workers were unable to prevent the Communist Party and union bureaucracy from reabsorbing their powerful upsurge through a combination of wage increases and new parliamentary elections.

A strategy of workers' control—a strategy of transitional demands, as they were called by the Communist International during its first year of existence, and later by Leon Trotsky and by the Fourth International—has, of course, many pitfalls. Any attempt by the workers to actually run a few factories isolated from the rest of the economy is doomed to failure, because they'll have to enter into competition with capitalist firms and submit to the inexorable imperatives of that competition. From this situation flow all the famous "laws of

motion" of capitalism—as producers' cooperatives have found out again and again to their sorrow. But revolutionary socialists, while understanding all these pitfalls and dangers, will not be inhibited by them to the point of abstaining from attempts to broaden the class struggle through these challenges to capitalist authority. There is no other way to develop anti-capitalist consciousness among hundreds of thousands and millions of workers than along this road. Propaganda through the written, or spoken word can convince individuals by the hundred and, in the best of cases, by the thousands. Millions will be convinced only by action. And only by actions for transitional demands, for workers' control of production, which is the transitional demand *par excellence* in our epoch, will these millions see their understanding and consciousness rise to the level necessary for a revolutionary change in Western society.

To initiate, broaden, and generalize these experiences, you need a revolutionary vanguard organization. Without such an organization, isolated experiences or initiatives of groups of vanguard workers will remain just that: isolated experiences. The role of the centralization of consciousness, of generalization of experience, of continuous transmission of knowledge, as against the inevitably discontinuous character of mass struggles, can be played only by such a vanguard organization. Just as imperialism is a world system and the multinational corporation the most typical organizational unit of Capital today, so labor needs an international organization to realize that most difficult and most exalting of tasks: to derive a maximum of revolutionary understanding and consciousness from a maximum of worldwide revolutionary activity.

Individuals who adhere to a revolutionary vanguard organization can be motivated in the most variegated ways; they can come from very different social backgrounds. The impact which two decades of revolutionary upsurge of the peoples of Asia, Latin America, and Africa has had on the revival of revolutionary consciousness in the West has been incommensurably more important than the actual economic damage it has done to the functioning of the capitalist world system up to now. The impact which the revolutionary student movement, and revolutionary youth movement in general, has had upon a reawakening of the working class in Western Europe and Japan cannot be overestimated. Even in Western Germany, in the first wave of large-scale wildcat strikes for nearly forty years, one found thousands of essentially still unpolitical and unsocialist

steelworkers in Dortmund imitating in their large demonstrations all the new forms of struggle introduced in Western German society by the revolutionary student movement during the previous two years.

But only if there exists a political leadership which can coordinate all these various forms of emergent revolutionary consciousness and direct them toward a central goal—the overthrow of capitalism; the conquest of political power—can the full momentum of the upsurge be maintained and the reawakened working class fully deploy its revolutionary potential. This of course includes a tremendous potential of spontaneous initiative. Actions by students and scientists; rent strikes and movements for women's liberation; revolts against disintegrating public services and uninhabitable cities; the taking over of hospitals and factories; all these multiple manifestations of revolt by all the creative layers of society against the capitalist relations of production, against oppression and exploitation in all their forms, can come into their own and avoid being co-opted by bourgeois society or ending in defeat only if they lead to a decisive showdown with the bourgeois class. In the last analysis, all these movements are political, because they pose the question of which class exercises power in society as a whole and in the state, and not merely the question: Who commands the machines in *one* plant? Who is to dictate the organization of *one* university? Who is to determine where *one* park should be located? Who is to run the buses in *one* city and in whose interest?

The unique unity of spontaneous mass revolt and mass organization in the full flowering of workers' democracy, on the one hand; and the concentrated consciousness, the distilled lessons of four centuries of modern revolutions and a hundred and fifty years of working-class struggles which is represented by a revolutionary party, on the other hand: this dialectical unity is embodied in the system of workers' councils which is the key answer to all the contemporary problems of mankind. For this system is a unique combination of free expression with dissent and unity of action, of liberty and efficiency, of individual self-expression and freely accepted collective solidarity. In such a system you can have, as you had in Russia in the first year of the revolution, ten, fifteen political tendencies coexisting and contending with one another for political hegemony, but at the same time bound together by a common concern to preserve and develop the revolution and fight against the common

enemy. The inklings of a similar system became visible in the summer days of 1936 in Spain, when the workers with nearly naked hands broke the onslaught of the fascist army in practically every important industrial city of the country.

The inklings of a similar system are slowly emerging today in the revolutionary upsurge which has been maturing in Western Europe since May 1968 in France. It is history's answer to the central question of our epoch, whether freedom and democracy can flourish and coincide with the tremendous objective surge towards the national and international centralization of power initiated by contemporary technology. My answer is, yes, it can, in a system of democratically centralized and planned self-management of workers and toiling people. This conclusion brings us back to the starting point. What are the agencies of social change in the West today? It is the basic thrust of the productive forces themselves, undermining, eroding, and shaking periodically in a violent way private property, the nation-state, and generalized market economy. It is the inevitable periodic explosions of labor's discontent against its alienation as producer, against the capitalist relations of production at plant level, locally, regionally, or nationally. It is the re-emergence of revolutionary consciousness in the youth through the transmission belts of the colonial revolution, the student revolt, the rise of a new generation of revolutionary teachers, scientists, technicians, and intellectuals. It is the potential fusion of that revolutionary consciousness with large masses of workers through campaigns and actions for transitional demands, culminating in workers' control of production. And it is the building of the revolutionary party and the revolutionary International. The better we succeed in combining all these elements, the closer we shall be to a socialist world and to the emancipation of labor and of all mankind!

EXHIBIT P

January 30, 1970.

Hon. JOHN N. MITCHELL,
Attorney General,
Department of Justice,
Washington, D.C.

Re Ernest Mandel.

DEAR MR. MITCHELL: I refer you to our prior correspondence with respect to my client, Mr. Ernest Mandel, and particularly

to my letters of December 2 and December 15, 1969, which have not been answered.

I now write on behalf of Mr. Mandel and the members of the academic community who previously sponsored or supported his visit to the United States and on behalf of those and other members of the academic community who are still interested in having the application for a visa granted. In this connection I write specifically on behalf of Professor Robert Paul Wolff of the Department of Philosophy at Columbia University, Professor Noam Chomsky of the Department of Linguistics at M.I.T., Professor Richard Falk of the Center for International Studies at Princeton University, Dr. Robert Heilbroner of the Department of Economics at the New School for Social Research, Professor Wassily Leontief of the Department of Economics at Harvard University, and Professor Norman Birnbaum of the Department of Sociology at Amherst College. On their behalf, I again request that you advise me as to the reasons for your refusal to accept the Secretary of State's recommendation that a visa be granted.

I am specifically authorized by Mr. Mandel and by the persons named to indicate to you that the members of the academic community continue to desire Mr. Mandel's admission, and that Mr. Mandel continues to request of you both an explanation of the action previously taken by you, as well as favorable action by you upon his application for a visa.

You will appreciate the fact that neither Mr. Mandel nor any of the persons desiring his admission to participate in public meetings, are in a position to schedule such meetings in the absence of your taking action to grant a visa in accordance with the Secretary of State's recommendations. They do not again wish to be put in a position of having made arrangements for public meetings which had to be cancelled at the last moment, because it was only then that you reached your decision not to accept the Secretary of State's recommendation.

In the event that you should continue, for reasons which are at the moment not clear to me, to fail to respond to this letter, I shall have to construe it as a continuing denial of your refusal to grant a visa in accordance with the recommendation of the Secretary of State.

I am sending a copy of this letter to the Secretary of State.

Sincerely yours,

LBB: rm

LEONARD B. BOUDIN.

EXHIBIT Q

[Refer to This File No. CO 212.23-C]

UNITED STATES DEPARTMENT OF JUSTICE,
IMMIGRATION AND NATURALIZATION SERVICE,
Washington, D.C. 20536. February 13, 1970.

Mr. LEONARD B. BOUDIN,
RABINOWITZ, BOUDIN & STANDARD,
Attorneys at Law,
30 East 42nd Street,
New York, New York 10017.

DEAR MR. BOUDIN: I have your letters of December 2 and 15, 1969 and January 30, 1970 concerning Ernest Mandel.

An alien who desires to make a temporary visit to the United States must first obtain a nonimmigrant visa from an American Consul abroad. If the alien is found inadmissible, the Consul may not issue him a visa. In such a case, the Secretary of State may, under certain circumstances, make a recommendation to the Attorney General that the alien be temporarily admitted to the United States notwithstanding his inadmissibility. If the Service, in behalf of the Attorney General, approves the recommendation, the Department of State is so advised and the Consul may then issue the alien the nonimmigrant visa. No provision is made in such a case for an alien to make application to this Service or to the Attorney General for the exercise of this discretionary authority.

The consular officer has found that Mr. Mandel was ineligible for a visa because of his subversive affiliations. However, as you are aware, Mr. Mandel's entry was previously authorized twice as a result of the Department of State's recommendation, notwithstanding his ineligibility for admission to the United States.

On his last visit in 1968, Mr. Mandel's entry was authorized for a series of academic engagements in the United States. His activities, while here, were much reported to the press and went far beyond the stated purposes of his trip, on the basis of which his admission had been authorized and represented a flagrant abuse of the opportunities afforded him to express his views in this country.

[see p. 71 for conclusion of letter]

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1. NOM DE FAMILLE		PRENOM USUEL		AUTRES PRENOMS	
<u>M. 1618</u>		<u>PCG</u>		<u>PCG</u>	
2. AUTRE(S) NOM(S) (Y COMPRIS LE NOM DE JEUNE FILLE, PSEUDONYME, ETC.)			3. NATIONALITÉ		
			<u>Américain</u>		
4. LIEU DE NAISSANCE (Ville, Département, Pays)			5. DATE DE NAISSANCE (Jour, Mois, Année)		
<u>France, 1618, Alsace</u>			<u>5. 1. 1923</u>		
6. DOMICILE			7. TELEPHONE		
<u>M. 1618, 127 rue Joss</u>			<u>75. 25. 43</u>		
8. ADRESSE COMMERCIALE			9. TELEPHONE		
10. PROFESSION			11. SEXE		
<u>Indépendant</u>			<u>M. H.</u>		
12. CHEVEUX (Couleur)	13. YEUX (Couleur)	14. TAILLE	15. TÊTE (Clair, Coloré, etc.)		
<u>Châtain</u>	<u>Grains</u>	<u>1m 71</u>	<u>Clair</u>		
16. SIGNES PARTICULIERS (Cicatrices visibles, etc.)					
17. SITUATION DE FAMILLE					
<input checked="" type="checkbox"/> Marié(e) <input type="checkbox"/> Célibataire <input type="checkbox"/> Veuf(ve) <input type="checkbox"/> Divorcé(e)					
18. BUT DU VOYAGE AUX ETATS-UNIS (Tourisme, affaires, visite à la famille ou à des amis, etc.)					
<u>Conférences dans les Universités américaines</u>					
19. DURÉE DU SEJOUR ENVISAGÉ AUX ETATS-UNIS			20. DATE APPROXIMATIVE DU DÉPART POUR LES ETATS-UNIS		
<u>2 mois</u>			<u>4 septembre 1968</u>		
21. QUI COUVRIRA VOS FRAIS DE TRANSPORT ET DE SEJOUR? (Vous-même, votre société, votre frère aux Etats-Unis, etc.)					
<u>Américains</u>					
22. VOTRE CONJOINT SE TROUVE-T-IL AUX ETATS-UNIS?			23. VOTRE PERE OU VOTRE MERE EST-IL (ELLE) AUX ETATS-UNIS?		
<input type="checkbox"/> Oui <input checked="" type="checkbox"/> Non			<input type="checkbox"/> Oui <input checked="" type="checkbox"/> Non		

24. INDIQUEZ OU ET APPROXIMATIVEMENT QUAND VOUS AVEZ DEMANDE POUR LA DERNIERE FOIS UN VISA POUR LES ETATS-UNIS

25. PRECISEZ

☐ Visa accordé

☐ Visa refusé

☐ Demande abandonnée

26. N'AVEZ-VOUS JAMAIS DEMANDE UN VISA D'IMMIGRATION POUR LES ETATS-UNIS ?

☐ Oui

☐ Non

27. DEPUIS COMBIEN DE TEMPS VIVEZ-VOUS DANS LE PAYS OU VOUS FAITES VOTRE DEMANDE ?

28. ENUMEREZ LES PAYS, AUTRES QUE CELUI DANS LEQUEL VOUS FAITES VOTRE DEMANDE, DANS LESQUELS VOUS AVEZ VECU PENDANT PLUS D'UN AN AU COURS DES CINQ DERNIERES ANNEES ET LES DATES APPROXIMATIVES DE CES RESIDENCES

Pays

Dates Approximatives

Algérie

29. A QUELLE ADRESSE DESIREZ-VOUS QUE VOTRE VISA ET VOTRE PASSEPORT SOIENT ENVOYES ?

30. AVIS IMPORTANT: La législation des Etats-Unis interdit la délivrance d'un visa de visiteur à toute personne qui a l'intention de s'établir dans le pays d'une façon permanente ou pour une période illimitée. Toute personne admise aux Etats-Unis avec un visa temporaire ne peut que s'y livrer aux activités pour lesquelles ce visa a été délivré. Un visiteur ne peut travailler. La législation des Etats-Unis interdit la délivrance de tout visa à toute personne atteinte d'une maladie contagieuse dangereuse, telle que la tuberculose; qui a souffert d'une maladie mentale sérieuse; qui est toxicomane ou se livre au trafic des stupéfiants; qui a des antécédents judiciaires y compris tout délit envers la morale publique; ou qui est ou a été membre de parti communiste ou de toute organisation affiliée, à moins que ces motifs d'exclusion n'aient fait préalablement l'objet d'une dispense spéciale. Au cas où l'une des restrictions énumérées ci-dessus s'appliquerait à vous, il est suggéré que vous vous présentiez dans nos bureaux pour une entrevue personnelle. Si cela n'est pas possible dès maintenant, une déclaration détaillant les faits vous concernant devrait être jointe à votre demande et nous être adressée. Dans certains cas il est possible d'obtenir une dispense des restrictions prévues. Des renseignements sur ce point, et sur toute autre question ou matière de visas, peuvent être obtenus en téléphonant, en vous présentant, ou en écrivant à nos services.

31. AVEZ-VOUS LU ET COMPRENEZ-VOUS BIEN LES INDICATIONS DONNEES AU PARAGRAPHE 30 DE CETTE FORMULE ?

☒ Oui

☐ Non

32. L'UNE QUELCONQUE DES RESTRICTIONS ENUMEREES AU PARAGRAPHE 30 S'APPLIQUE-T-ELLE A VOUS ?

☐ Oui

☒ Non

LE CAS ECHEANT, DONNEZ TOUS DETAILS SUR UNE FEUILLE JOINTE

33. Un visa accordé à toute personne ayant, en pleine connaissance de cause, donné de faux renseignements dans sa demande de visa est susceptible d'être annulé soit avant d'être arrivé aux Etats-Unis. Toute personne ayant fourni de tels faux renseignements peut être refusé à l'entrée et recevoir un visa.

34. Je certifie que les réponses que j'ai données sur cette formule sont exactes pour autant que je sache. De plus, je reconnais que la possession d'un visa n'assure pas au titulaire l'entrée aux Etats-Unis et, lors de son arrivée ou port d'entrée, il est établi que le titulaire ne peut être admis.

23/7/1968

Date

Ernest Moudi

Signature

(N'ECRIVEZ PAS DANS CET ESPACE RESERVE AU SERVICE)

[This is conclusion of letter appearing at p. 68]
Accordingly, when the recent recommendation was made that he be permitted to enter for a third time, it was concluded that the favorable exercise of discretionary authority provided under the Immigration and Nationality Act was not warranted and his temporary admission was not authorized. There is no basis for changing this determination.

Sincerely,

(S) JAMES F. GREENE,

(S) James F. Greene

Associate Commissioner, Operations.

EXHIBIT R

DEPARTMENT OF STATE DIVISION OF LANGUAGE SERVICES.

[TRANSLATION]

Is No. 16988, T-120/R-XXXII, French.

1. Name: Ernest Esra Mandel.
2. Other names used, etc.: [Blank].
3. Nationality: Belgian.
4. Place of Birth: Frankfurt, German.
5. Date of Birth: April 5, 1923.
6. Address: 127 rue Josse Impeus, Brussels 3.
7. Telephone: 16 95 43.
8. Business Address: [Blank].
9. Telephone: [Blank].
10. Occupation: Journalist.
11. Sex: Male.
12. Color of Hair: Dark Brown.
13. Color of Eyes: Dark Brown.
14. Height: 1 m, 81 cm.
15. Complexion: Fair.
16. Distinguishing marks: [Blank].
17. Martial Status: Married.
18. Purpose of trip to the United States: Lectures at American universities (see enclosed letters) and tourism.
19. Length of proposed stay in the United States: 2 months.
20. Approximate departure date for the United States: September 4, 1968.

21. Who will cover your transportation and travel expenses?
The universities.

22. Is your wife in the United States: No.

23. Is either your father or your mother in the United States?: No.

24. State where and approximately when you last applied for a United States visa: March 1962.

25. Mark correct box: [Visa granted].

26. Have you ever applied for a United States immigrant visa?: No.

27. How long have you lived in the country where you are applying?: 44 years.

28. List countries, other than the one in which you are making your application, where you have lived for over one year during the last five years, and your approximate dates of residence therein: None.

29. Where do you want your visa and passport to be sent?:
127 rue Josse Impens, Brussels 3.

30. [Notice.]

31. Have you read and understood the contents of paragraph 30 above? Yes.

32. Do any of the restrictions of paragraph 30 apply to you?: No.

33. [Notice:]

34. Date: July 23, 1968 [Signed] Ernest Mandel.
ERNEST MANDEL,
127, Rue Jos, Impens,
Bruxelles 3,
Tel. 16.95.43.

BRUXELLES, LE

Socialist Scholars Conference, Rutgers University, September 6 to 8.

McGill University/Montreal, September 16.

University of Toronto, Political Economy Dept., September 18.

Western University, Cleveland (not yet confirmed), September 19.

University of Pittsburgh, Economics Dept., September 20.

University of Michigan, September 21.

Western Michigan University, Kalamazoo, September 23.

University of Indiana, September 24.

DéPaul University, Economic Dept., Chicago, September 26.

University of Wisconsin, Political Science Dept., September 27.

Minneapolis, Carleton College, September 28.

University of California, Riverside, Los Angeles, October 3.

University Los Angeles State, History Dept. (not yet confirmed), October 1.

University of California, Berkeley, Economics Dept., October 4.

University of California, Berkeley, Slavic Studies, October 6.

San Francisco State University, Dept. of History, October 7.

University of Washington, Seattle, October 9.

Simon Fraser University, Vancouver, October 10.

University of Vancouver, October 11.

University of Pennsylvania, Philadelphia, October 14.

State University of New York, Binghamton, Economics, October 15.

State University of New York, Binghamton, Russian Studies, October 16.

Swarthmore College, Pennsylvania, Economics Dept., October 20.

Between Oct. 21 and Oct. 29; Universities at Boston and New Haven, not yet confirmed.

Hofstra College, Hempstead, L.I., October 30.

Itinerary:

Arrival New York, Wednesday, September 4.

Rutgers, September 6 to September 8.

New York area, September 9 to September 14.

Montreal (Canada), September 15-16.

Toronto (Canada), September 17-18.

Cleveland, September 19.

Pittsburgh, September 20.

Detroit-Michigan area, September 21-23.

Bloomington, Ind., September 24.

Chicago, September 25-26.

Madison, September 27.

Minneapolis, September 28.

Travel, September 29.

Los Angeles area, September 30 to October 3.

San Francisco Bay area, October 4-7.

Travel, October 8.

Vancouver (Canada), October 10-11.

Travel, October 12.

East Coast (Philadelphia, Boston, Binghamton, New Haven, New York City, pending final arrangements),
October 13 to November 1.

SOCIALIST SCHOLARS CONFERENCE,

P.O. BOX 412, COOPER STATION,

New York, N.Y., June 9, 1968.

TO THE MEMBERS AND FRIENDS OF THE SSC:

Enclosed you will find a preliminary program for the Fourth Annual Socialist Scholars Conference. The Conference is scheduled for Friday, Saturday and Sunday, September 6, 7, and 8, 1968. It will be held on the campus of Rutgers University in New Brunswick, New Jersey. Rutgers is 50 minutes by bus from the Port Authority Terminal at 41st Street and 8th Avenue, in New York City. It may also be reached by train from the Pennsylvania Station at 33rd St. and 7th Avenue, or by automobile via the New Jersey Turnpike to exit 9. It is possible to charter buses from New York to New Brunswick and return. If such a plan would suit your needs, please indicate so in the registration form below. Overnight accommodations in New Brunswick are very limited.

In some respects, the program represents a departure from the past. On the basis of suggestions and criticisms from many sources, the Steering Committee decided that the previous format (numerous and very large panels on a great variety of subjects with little opportunity for discussion) was ineffective in realizing the primary purpose of our organization. This purpose has always been to deepen our knowledge and scholarship through critical confrontation of generally sympathetic but professionally demanding scholars.

This year the program will have a unifying theme, "The Socialist Perspective in the Advanced Countries." There will be no more than six panels (as compared to 18 in 1967), and each will be devoted to a significant problem within the general theme. Following the session, all participants (panelists and audience) will meet in discussion groups of 20 to 30 people where the issues raised during the presentation may be debated more adequately than previous procedures had permitted.

This new format demands more preparation, both from the panelists and the audience. The former will be expected to prepare their papers well before the Conference so that abstracts

of each paper will be available to all participants by September 6. For its part, the audience must also do its homework. True enough, many in our previous audiences were as knowledgeable or more so than the panelists themselves. On the other hand, some listeners have lacked sufficient background either to learn from the papers or contribute to the discussion.

In the hope of making this Conference a greater success, the Steering Committee requests all who will be present to do some reading before hand. When you return the registration form, please indicate which sessions you plan to attend. On or about July 15, a short list of book-titles for those sessions will be sent to you. (If you wish, you may have bibliographies for all the sessions, but it would still be useful for us to know which panels you expect to attend.)

Fraternally,

(S) John M. Cammett
JOHN M. CAMMETT,
President, 1967-68,
Socialist Scholars Conference.

Registration form: Tear off and mail with payment before July 15, 1968

Name _____

Address _____

Affiliation _____

Registration _____ \$10.00

Students _____ 5.00

Dinner 9/6 _____ 5.00

Contribution _____

(tax deductible!)

Total \$ _____

Make checks payable to:

Socialist Scholars Conference,

Box 412, Cooper Station,

New York, N.Y. 10003

Panels I expect to attend:

_____ Susman

_____ Gutman

_____ Mandel

_____ Williams

_____ Cruise

_____ Weinstein

_____ please check if interested
bus service.

Notice: On October 18, 1968, the SSC will present the following program at Town Hall in N.Y.C.:

"On Frantz Fanon: Two Critiques and a Discussion." Chairman: Conor Cruise O'Brien. Critiques by Eugene Genovese and A. Norman Klein. Comments by Conrad Lynn and Vincent Harding.

FOURTH ANNUAL SOCIALIST SCHOLARS CONFERENCE

"The Socialist Perspective in the Advanced Countries"

Rutgers University, New Brunswick, N. J.

September 6, 7, 8, 1968

PRELIMINARY PROGRAM

Friday, September 6

10:00 a.m. Opening Remarks.

10:30 a.m. THE ROLE OF INTELLECTUALS IN SOCIAL CHANGE: Warren Susman (Rutgers U.). Chairman: Conor Cruise O'Brien (N.Y.U.). Commentator: Christopher Lasch (Northwestern U.).

10:30 a.m. NEW THOUGHTS ON THE HISTORIOGRAPHY OF THE AMERICAN WORKING CLASS: Herbert Gutman (U. of Rochester). Chairman: Melvyn Dubofsky (U. of Mass.). Commentators: Philip Foner (Lincoln U.), Stephen Thernstrom (Brandeis U.).

12:30 p.m. Lunch.

2:30 p.m. Discussion of morning panels.

6:00 p.m. Dinner.

7:30 p.m. Guest speaker (Possible speakers: André Gorz, Raymond William, Eric Hobsbawm, E. P. Thompson).

Saturday, September 7

10:00 a.m. THE WORKING CLASS AND NEO-CAPITALISM: Ernest Mandel (editor of the Belgian socialist weekly, *La Gauche*, and author of the two-volume *Traité d'Economie marxiste*). Commentators: Louis Salkeever (State U. of N.Y., Albany), Alexander Erlich (Columbia U.).

10:00 a.m. DECENTRALIZATION AND AMERICAN SOCIALISM: William Appleman Williams (U. of Wisconsin). Commentators: James Becker (N.Y.U.), Leo Huberman (*Monthly Review*).

12:00 noon: Lunch.

1:30 p.m. BLACK POWER AND SOCIALISM: A DISCUSSION OF HAROLD CRUSE'S *The Crisis of the Negro Intellectual*: Eugene Genovese (Sir George Williams U.) and Sterling Stuckey (Northwestern U.). Chairman: Alphonse Pinckney. Commentator: Harold Cruse.

3:30-5:30 p.m. Discussion of morning and afternoon panels.
9:00 p.m. Party in New York City.

Sunday, September 8

10:00 a.m. THE PRECONDITIONS FOR A MASS SOCIALIST PARTY IN THE UNITED STATES: James Weinstein (author of *The Decline of Socialism in America, 1912-1925*). Chairman: Ann Lane (Douglass College). Commentators: Gar Alperovitz (M.I.T.), Michael Greenberg (Brooklyn Poly.), Geoff White (Berkeley).

12:00 noon: Lunch.

1:30 p.m. Discussion of morning panel.

3:45 p.m. Business Meeting of the SSC.

Note: A leading Soviet sociologist has also been invited to participate in the work of the Conference. Other scholars from Eastern Europe have been informed of our program and invited to attend.

UNIVERSITY OF PENNSYLVANIA,
WHARTON SCHOOL OF FINANCE AND COMMERCE,
Philadelphia, Pa. 19104, June 7, 1968.

DEPARTMENT OF ECONOMICS

Mr. GEORGE NOVACK,
326 West 19th Street,
New York, N.Y. 10011.

DEAR MR. NOVACK: We would be interested in having Mr. Ernest Mandel address our Seminar on Economic Planning during the fall semester. A good day for us would be on October 29, or another Tuesday in that approximate period.

Sincerely yours,

(S) Richard A. Easterlin,
RICHARD A. EASTERLIN,
Chairman, Department of Economics,

RAE: fb

FACULTY OF ARTS AND SCIENCES,
UNIVERSITY OF PITTSBURGH,
Pittsburgh, Pa. 15213, June 4, 1968.

DEPARTMENT OF ECONOMICS

Mr. GEORGE NOVACK,
326 West 19th Street,
New York, N.Y. 10011.

DEAR MR. NOVACK: We should like to have Mr. Ernest Mandel talk to our Economics Department Seminar while he is here. Would it be possible for him to come either September 20 or 27? The Seminar meets Friday afternoons from 3:15 to about 5:00.

I wonder if he would be willing to talk to us about Contemporary Marxism in Europe, East and West.

We follow the custom of having two graduate students act as discussants for the seminar paper. We aim at having the seminar paper in their hands a couple of weeks before the seminar. It is also helpful to have extra copies for distribution.

The Department offers an honorarium of \$100 and travel expenses up to \$100.

Sincerely yours,

(S) Janet G. Chapman
JANET G. CHAPMAN,
Professor of Economics.

JGC/lhz

STATE UNIVERSITY OF NEW YORK AT BINGHAMTON,
Binghamton, N.Y. 13901, May 30, 1968.

DIVISION OF SOCIAL SCIENCES

DEPARTMENT OF ECONOMICS

Mr. ERNEST MANDEL,
c/o NOVACK,
326 West 19th Street,
New York, N.Y. 10011.

DEAR MR. MANDEL: I understand from George Novack that you are planning a lecture tour in the United States during the coming September and October.

If you are available October 3rd-4th, I would like to invite you to our campus for lectures to our sociology department.

Russian studies department, and possibly the economics department. If these dates are unsuitable, please let me know, and I will try to coordinate our plans with yours.

I look forward to hearing from you at your earliest convenience.

Sincerely yours,

(S) Melvin M. Leiman
MELVIN M. LEIMAN,

Associate Professor of Economics.

UNIVERSITY OF CALIFORNIA, RIVERSIDE,
Riverside, Calif. 92501, May 29, 1968.

DEPARTMENT OF ECONOMICS

Mr. GEORGE NOVACK,
326 West 19th Street,
New York, N.Y. 10011.

DEAR MR. NOVACK: The Department of Economics at the University of California, Riverside would be very happy to have a Lecture here by Mr. Ernest Mendel somewhere between October 4 and November 4. We will pay him an honorarium.

We have some questions, however, which we would appreciate some answers to first. First, we would like to know what the cost would be. We have only a limited amount of funds for this purpose, since Governor Reagan has cut out a good portion of our budget. Therefore, please let us know what the minimum amount would be.

Secondly, we would like to suggest that perhaps he could make up the difference to a larger amount by getting another invitation somewhere on the West Coast. The only suggestion I personally can think of would be to have him speak at Berkeley, where it would probably be a good idea to contact Professor Reginald Zelnick, of the History Department there.

I would think we could have him speak on "The Marxist Theory of Alienation." That would be our preferred topic, and I take it that would be alright with him. Please let me know as soon as possible what the possibilities are (both as to costs and dates).

Yours,

(S) Howard Sherman
HOWARD J. SHERMAN,

Professor

HJS/cf

SWARTHMORE COLLEGE,
Swarthmore, Pa. 19081, May 29, 1968.

DEPARTMENT OF ECONOMICS

Mr. GEORGE NOVACK,
326 West 19th Street,
New York, N.Y. 10011.

DEAR MR. NOVACK: I apologize for my delay in answering your letter of April 28 concerning Ernest Mandel's visit to this country next fall.

We would be very pleased to have Mr. Mandel come to Swarthmore to talk on whatever aspect of contemporary Marxian economic thought is of most interest to him. His lecture topic, "Marxist Economics and Contemporary Capitalism" should give him all the scope he may need. We also hope that he could meet informally with a group of seminar students interested in the general area of international politics, either before or after his lecture.

We don't have any fixed dates, but as possibilities let me mention October 17 or 24 (both Thursdays), or October 13 or 20 (both Sundays). If those are not possible, I am sure other dates could be arranged.

We normally give an honorarium of \$100 for such a lecture, plus travel expenses, but if he were able to come for a longer period, we of course would adjust the stipend accordingly.

Thank you for bringing this possibility to our attention, and I do hope a mutually satisfactory date can be worked out.

Sincerely yours,

(S) Frank C. Pierson

FRANK C. PIERSON,

Chairman.

FCP/g

UNIVERSITY OF CALIFORNIA, BERKELEY,
Berkeley, Calif. 94720, May 21, 1968.

DEPARTMENT OF ECONOMICS

Mr. GEORGE NOVACK,
326 West 19th Street,
New York, N.Y. 10011

DEAR MR. NOVACK: This is in response to your letter of April 28, regarding Ernest Mandel's visit to the U.S. next fall. The Department of Economics and the Center for Slavic and East European Studies here would be interested in sponsoring two talks by Mr. Mandel, preferably on the following two topics, which were among the four you listed: (1) Marxist economics and contemporary capitalism; (2) problems of the Soviet economy. Following our standard practice, we would be prepared to offer Mr. Mandel an honorarium of \$75 for each lecture (i.e. \$150 for both). Unfortunately, we are not in a position to make any further contribution to Mr. Mandel's expenses.

We would be delighted if you are able to fit such a visit to Berkeley into Mr. Mandel's schedule, and we look forward to hearing from you at your convenience.

Sincerely,

(S) Roy Radner
~~ROY RADNER,~~
Chairman.

RR/cl

P.S. The first day of instruction in the Fall Quarter is September 30. Since the first week of instruction is usually rather hectic, it would be desirable if Mr. Mandel's talks were not scheduled before October 7.

WESTERN MICHIGAN UNIVERSITY,
Kalamazoo, Mich. 49001, May 8, 1968.

SCHOOL OF GENERAL STUDIES
SOCIAL SCIENCE AREA

Mr. GEORGE NOVACK,
326 West 19th Street,
New York, N.Y. 10011

DEAR MR. NOVACK: Your letter to Dr. Fredy Perlman of April 20, 1968, has been forwarded to me for reply. Dr. Perlman is presently in Italy where he is lecturing in an Institute which has also seen fit to invite Ernest Mandel as a guest lecturer. I have learned that they have made contact with each other and that they are enjoying this chance/opportunity to meet face to face.

Since Dr. Perlman will not be back in Kalamazoo until the end of the summer, I think it would be useful for you to send me the further details which deal with Mr. Mandel's American visit.

Sincerely yours,

(S) David S. De Shon
DAVID S. DE SHON,
Chairman.

DSD:sko

HOFSTRA UNIVERSITY,

COLLEGE OF LIBERAL ARTS AND SCIENCES

Chicago 14, Ill., May 6, 1968.

Mr. GEORGE NOVACK,
326 West 19th Street,
New York, N.Y. 10011

DEAR MR. NOVACK: Thank you and Paul Sweezy for the opportunity to present Ernest Mandel to our students. We are definitely interested in arranging one or two lectures on our campus in the topics offered. I believe that this could be done during the Fall Quarter, which begins in September.

Please let us know when Mr. Mandel would be coming through Chicago and also about the financial arrangements, fees, etc. While we are operating under a very modest budget, we are, of course able to pay something reasonable provided

that we would not have to pay all the expenses of his travel and stay in Chicago. Please let us hear from you at your earliest convenience.

Sincerely,

JOSEPH GIGANTI,
*Chairman, Speakers Committee,
Behavioral Social Science Division.*

HOFSTRA UNIVERSITY,
Hempstead, Long Island, N.Y. 11550, April 29, 1968.

DEPARTMENT OF ECONOMICS

Mr. ERNEST MANDEL,
*c/o George Novack,
326 West 19th Street,
New York, N.Y. 10011*

DEAR SIR: The Economics Club of Hofstra University offers its members and others the opportunity to hear teachers and experts from outside the university and to discuss with them topics that have particular relevance to the present economic situation.

We would like to take this opportunity to invite you to address the Economics Club on the subject "Problems of Transitional Economies or the Marxist Theory of Alienation". We have chosen the tentative date of Wednesday, October 30th, 1968 at 3:30 p.m.

Our meetings usually last about one hour and a half during which time the speaker gives an informal talk for about forty minutes followed by a question and answer period over coffee and cake.

If you would like to accept our invitation but find the date inconvenient, we would be glad to rearrange our schedule for any other week-day at the same time. We hope that you will be able to accept our invitation since it offers us the opportunity to hear a viewpoint which has failed to gain sufficient exposure in this country.

Looking forward to seeing you on the 30th, I am

Cordially yours,

(S) Myron Jackler
MYRON JACKLER,
Secretary,

Economics Club, Hofstra University.

[Filed in Clerk's Office, U.S. District Court E.D. N.Y.]

[Caption Omitted]

Designation of Judges

70-C-344

Having been notified by the Honorable John R. Bartels United States District Judge for the Eastern District of New York, that an application has been filed in the above matter for relief pursuant to Title 28 United States Code Section 2281, pursuant to Title 28 United States Code Section 2284 I hereby designate the following judges, in addition to the Honorable John R. Bartels, to hear and determine said cause as provided by law: Honorable Wilfred Feinberg, United States Circuit Judge, and Honorable John F. Dooling, Jr., United States District Judge for the Eastern District of New York.

IT IS HEREBY ORDERED that this order be filed in the above entitled cause in the United States District Court for the Eastern District of New York.

(S) J. EDWARD LUMBARD,

*Chief Judge, United States Court
of Appeals for the Second Circuit.*

Dated: New York, N.Y., June 16, 1970.

[Caption Omitted]

Answer

Civil Action No. 70-C-344

Defendants, answering the complaint herein by their attorney, Edward R. Neaher, United States Attorney for the Eastern District of New York, respectfully show to the Court and allege:

1. The allegations of paragraph 1 of the complaint present questions of law which are referred to the Court for determination.

2. Deny knowledge or information sufficient to form a belief as to each and every allegation of paragraphs of the complaint marked 2, 3, 6, 10, 14, 16 and 17.

3. Deny each and every allegation of paragraph 15 of the complaint except admit that on December 1, 1969 Mandel was advised by letter that a waiver of ineligibility was refused in his case.

4. Deny each and every allegation of paragraphs 4, 18, 19, 20 and 21.

*As and for a First Complete, Separate and Affirmative Defense
As to Plaintiff Mandel*

5. The plaintiff Mandel is not a citizen of the United States and lacks standing to assert the Constitutional rights of a citizen of the United States.

As and for a Second Complete, Separate and Affirmative Defense

6. The plaintiffs Mermelstein, Leontiff, Birnbaum, Heilbroner, Wolff, Menashe, Chomsky and Falk lack standing to sue for an immigration visa for the plaintiff Mandel.

As and for a Third Complete, Separate and Affirmative Defense

7. The Court lacks jurisdiction over the subject matter of this action.

As and for a Fourth Complete, Separate and Affirmative Defense

8. The complaint fails to state a claim upon which relief can be granted.

As and for a Fifth Complete, Separate and Affirmative Defense

9. 8 U.S.C. § 1182(a)(28) and its subsections which are the subject of this action constitute a valid exercise by Congress of a right of the United States of America as a sovereign, independent nation.

WHEREFORE, defendants demand judgment dismissing the complaint, together with the costs and disbursements of this action.

Dated: Brooklyn, N.Y., July 8, 1970.

EDWARD R. NEAHER,

United States Attorney, Eastern District of New
York, Attorney for Defendants, 225 Cadman
Plaza East, Brooklyn, N.Y. 11201.

By: LLOYD H. BAKER,
Assistant United States Attorney.

To: Rabinowitz, Boudin & Standard, Esqs., Attorneys for
Plaintiffs; 30 East 42d Street, New York, N.Y. 10017.

[Caption Omitted]

STATE OF NEW YORK
County of Kings, ss:

Affidavit
70-C-344

LLOYD H. BAKER, being duly sworn, deposes and says:
I am an Assistant United States Attorney duly appointed and acting according to law and am in charge of this case and familiar therewith. I make this affidavit in opposition to plaintiffs' motion for the convening of a three-judge court and for an injunction.

Although the Department of Justice has not as yet been supplied with the State Department file in this matter, a reading of plaintiffs' motion papers clearly shows that Ernest Mandel, whose application for a nonimmigrant visa is at issue in this case, is an advocate of the "economic, international and governmental doctrines of world communism" and thus is an alien who is ineligible to receive a visa under the terms of 8 U.S.C. § 1182(a)(28)(D).

In fact, his attorney describes him in the complaint (para. 6a) as "an internationally noted Marxian scholar and economist and the author of *Marxist Economic Theory* (1969)."

Plaintiffs' attorney, Mr. Leonard B. Boudin, in his affidavit in support of this motion (para. 3) again states "Mr. Mandel is an internationally noted Marxist scholar . . . He is the editor-in-chief of the Belgian Left Socialist weekly *La Gauche*. He is also the the author of several books * * *" and again refers to the above-mentioned (*Marxist Economic Theory* (1969)). The title of his proposed speech at one of the stops on his proposed speaking tour which is in issue herein was "Revolutionary Strategy in the Imperialist Countries" (page 3 of Mr. Boudin's affidavit; Exhibit O).

In an introduction to a printed copy of the above-mentioned speech which Ernest Mandel had planned to make in New York City (Exhibit O), Mr. Mandel is described as "an internationally known Trotskyist". "When Mandel toured the United States in 1968, his revolutionary positions were assailed by such right wing voices as * * *" (page 4 of the introduction to Exhibit O). See also page 5 where he is called "a man who is

probably the most influential and authoritative exponent of Marxist ideas in the West today." Further in the same paragraph "Mandel is best known for his two volume work *Marxist Economic Theory*" and reference is also made to two other of his works, *An Introduction to Marxist Economic Theory* and *The Marxist Theory of the State*.

Thus, there appears to be no issue of fact as to whether Ernest Mandel is an alien who advocates the doctrines of world communism, so as to be within the purview of 8 U.S.C. § 1182 (a)(28)(D), and also that he comes within the purview of subsection (G)(v), as being an alien who writes and publishes matter advocating and teaching the doctrines of world communism. The only issue then is the question of the constitutionality of those sections raised by the plaintiffs.

Mr. Boudin makes reference in his affidavit to Mr. Mandel's statements in his applications for visas that he is not a member of any Communist Party. However, since Mr. Mandel is an excludable alien under the terms of the above-cited sections, this is irrelevant. The statute excludes not only members of the Communist Party (which is covered by a different subsection) but, as set forth above, those who advocate communism, and those who write and publish matter advocating communism.

The power and authority of the United States, and of Congress, to prohibit and regulate immigration, and to exclude aliens altogether, has been upheld again and again, and is inherent in sovereignty and essential to self-preservation. Previous court decisions throughout the years make this principle firmly established beyond doubt. Legal precedents will be cited in our memorandum of law. Therefore, whether or not Mr. Mandel violated the previous conditions of waiver in 1962 and/or 1968 is irrelevant. (Mr. Boudin attempts to raise this issue at pp. 7-8 of his affidavit.) Mr. Mandel clearly comes within a class of aliens which Congress has excluded by statute, and Congress clearly has the absolute power to exclude aliens whom it wishes to exclude, and can delegate the power to grant a waiver of that exclusion to the executive branch. To grant a waiver or not is merely a matter of grace.

Promises and assurances as to future conduct and compliance with the terms of waiver (raised at page 8 of Mr. Boudin's affidavit) are likewise irrelevant.

The Attorney General is not required to justify his finding that the applicant should not receive a waiver. The power of the sovereign United States of America to exclude aliens is absolute, and the granting of a waiver of that exclusion is merely a matter of grace, as stated above. Therefore, the official to whom Congress has delegated the power to grant a waiver is not required by law to get into a disputed question of fact with the applicant, which Mr. Boudin is apparently trying to promote (page 11 of his affidavit). The Attorney General is not required to provide an explanation for his finding and decision. Likewise, a hearing is not required (page 13 of Mr. Boudin's affidavit). Nor is the substantial evidence rule applicable in the case of an application for a visa (page 14 of Mr. Boudin's affidavit). Granting or withholding a waiver is a matter of discretion to be exercised by the Attorney General after receiving a recommendation from the State Department. There is of course nothing in the statute which says that the Attorney General must follow the recommendation of the State Department.

In view of the well established law on the subject which is contrary to the plaintiffs' contentions, it is urged that the convening of a three-judge court is not warranted. Also, it is evident that plaintiffs do not have a clear prospect of being successful in this action, which would justify the granting of an injunction.

WHEREFORE, I respectfully request that this motion be denied in all respects, both as to the convening of a three-judge court, and the granting of an injunction.

Sworn to before me this 9th day of June 1970.

CYRIL HYMAN,

Notary Public, State of New York,

No. illegible,

Qualified in Nassau County, Commission Expires March 30, 1971.

[Caption Omitted]

Decision of United States District Court, Eastern District of New York * * * See appendix to jurisdictional statement.

70 Civ. 344

Order

The above captioned cause having been duly referred to this statutory Court pursuant to an order of Hon. J. Edward Lumbard, Chief Judge of the United States Court of Appeals, Second Circuit, and said cause having duly come on to be heard before us on June 24, 1970, and upon filing the opinion of this Court dated March 18, 1971, it is

ORDERED, ADJUDGED AND DECREED that plaintiffs' motion for a preliminary injunction and declaratory judgment is granted, and it is further

ORDERED, ADJUDGED AND DECREED that the defendants are hereby enjoined and restrained from implementing and enforcing §§ 212(a)(28) and 212(d)(3)(A) of the Immigration & Nationality Act of 1952, 8 U.S.C. § 1182a(28) and (d)(3)(A) so as to deny plaintiff Mandel admission to the United States as a non-immigrant visitor, and it is further

ORDERED, ADJUDGED AND DECREED that the above specified sections of the Immigration & Nationality Act of 1952 are invalid and void insofar as they have been or may be invoked by the defendants to find plaintiff Mandel ineligible for a non-immigrant visa and to deny him temporary admission into the United States, and it is further

ORDERED, ADJUDGED AND DECREED that upon proper application by the plaintiff Mandel for a non-immigrant visa and for admission to the United States for purposes similar to those involved in his prior applications, which were the subject matter of this action, the defendants are directed to issue him a non-immigrant visa and to permit his admission into the United States, and it is further

ORDERED, that the effectiveness of the second decretal paragraph hereof is stayed for twenty days from the date hereof.

Dated: New York, N.Y., April 13, 1971.

(S) WILFRED FEINBERG,

U.S.C.J. 9

JOHN F. DOOLING, JR.,

U.S.D.J.

U.S.D.J.

[Caption Omitted]

Notice of Appeal

70 C 344

PLEASE TAKE NOTICE that the defendants hereby appeal to the Supreme Court of the United States from the order of the three-judge court herein dated April 13, 1971, and from each and every part of said order.

Dated: Brooklyn, New York, May 3, 1971.

EDWARD R. NEAHER,

*United States Attorney, Eastern District of New York,
Attorney for Defendants, 225 Cadman Plaza
East, Brooklyn, New York 11201.*

By: Lloyd H. Baker

LLOYD H. BAKER,

Assistant United States Attorney.

To: Clerk, United States District Court, Eastern District of New York, 225 Cadman Plaza East, Brooklyn, New York 11201.

Rabinowitz, Boudin & Standard, Esqs., Attorneys for Plaintiffs, 30 East 42 Street, New York, New York 10017.

[Filed in the Clerk's Office, U.S. District Court E.D. N.Y.]

Notice of Motion

70 C 344

PLEASE TAKE NOTICE that upon the annexed affidavit of Lloyd H. Baker, sworn to May 3, 1971, and upon all the pleadings and proceedings heretofore had herein, the undersigned will move the three-judge court convened in this case at a term to be held at the United States Courthouse, 225 Cadman Plaza East, Brooklyn, New York, on May 7, 1971 at 10:00 o'clock in the forenoon of that day, or as soon thereafter as counsel may be heard, for an order staying the operation of the order of this court dated April 13, 1971, and for such other and further relief as this court may seem just and proper in the premises.

Dated: Brooklyn, N.Y., May 3, 1971.

EDWARD R. NEAHER,

*United States Attorney, Eastern District of New York,
Attorney for Defendants, 225 Cadman Plaza
East, Brooklyn, New York 11201.*

By: Lloyd H. Baker

LLOYD H. BAKER,

Assistant United States Attorney.

To: Rabinowitz, Boudin & Standard, Esqs., Attorneys for Plaintiffs, 30 East 42d Street, New York, New York 10017.

STATE OF NEW YORK } ss.: *Affidavit*
County of Kings, } 70-C-344

Lloyd H. Baker, being duly sworn, deposes and says:

I am an Assistant United States Attorney in charge of this case, and I am familiar therewith. I make this affidavit in support of this motion for a stay pending appeal to the Supreme Court.

By decision dated March 18, 1971, this Court, by a 2 to 1 decision, held unconstitutional certain subsections of the Immigration and Nationality Act of 1952 and directed that a temporary travel visa be issued to the plaintiff Mandel. An order thereon was signed on April 13, 1971.

We have been advised by the Department of Justice that the Solicitor General has directed that an appeal be taken to the Supreme Court.

Plaintiff Mandel had applied for a temporary visa for the purpose of making a lecture tour to American universities. If the order is not stayed, and Mandel applies for, and is issued a non-immigrant visa and completes his lecture tour, it is evident that the matter will become moot, and the purpose of taking an appeal to the Supreme Court will be frustrated. This case involves serious constitutional questions concerning the separation of powers of the branches of the government and the powers of the legislative and executive branches to control, restrict and regulate immigration and foreign visitors. The Solicitor General has determined that these questions should be determined by the Supreme Court, a direct appeal to the Supreme Court being provided by statute in cases of this nature.

WHEREFORE, I respectfully request that this motion be granted, and that the order of this court dated April 13, 1971 be stayed pending appeal to the Supreme Court.

(S) Lloyd H. Baker,
LLOYD H. BAKER,
Assistant United States Attorney.

Sworn to before me this 3d day of May 1971

(S) Paul E. Warburgh, Jr.,
 PAUL E. WARBURGH, Jr.,
 Notary Public, State of New York
 No. 52-9528430

Qualified in Suffolk County. Commission expires March 30, 1972.

AFFIDAVIT OF MAILING—(OMITTED)

AFFIDAVIT OF PERSONAL SERVICES—(OMITTED)

ORDER
 Civil Action No. 7-C-344

Upon the motion of defendants, dated May 3, 1971, for a further stay of the order of this court, dated April 13, 1971, in the above-entitled case, the affidavit in support thereof, sworn to May 3, 1971, and the affidavit in opposition, sworn to May 6, 1971, and the Notice of Appeal having been filed on May 3, 1971, it is hereby ordered that:

1. A stay of the order is granted for 30 days from the date hereof.

2. If during the 30-day period defendants file their jurisdictional statement on appeal from said order with the Supreme Court, the stay shall continue until final disposition by the Supreme Court.

WILFRED FEINBERG,
 United States Circuit Judge.
 JOHN R. BARTELS,
 United States District Judge.
 JOHN F. DOOLING,
 United States District Judge.

Dated: May 11, 1971.

Order

70-C-344

On motion of defendants—appellants, plaintiffs opposing, it is

ORDERED, that the time within which the appellants may file this jurisdictional statement as a condition for continuance of the stay granted by the order of May 11, 1971, is extended to and including July 3, 1971.

Dated: Brooklyn, N.Y., June 10, 1971.

(S) WILFRED FEINBERG,
U.S.C.J.

(S) JOHN R. BARTELS,
U.S.D.J.

(S) JOHN F. DOOLING, Jr.,
U.S.D.J.

In the Supreme Court of the United States

OCTOBER TERM, 19—

No. 71-16

JOHN N. MITCHELL, ATTORNEY GENERAL OF THE UNITED
STATES ET AL., APPELLANTS,

v.

ERNEST MANDEL ET AL.

APPEAL from the United States District for the Eastern District of New York.

The statement of jurisdiction in this case having been submitted and considered by the Court, probable jurisdiction is noted.

January 10, 1972.

